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Administrative Plan

Effective: October 1, 2020

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ADDENDUM 3 – ANNUAL PLAN

ADDENDUM 4 – FIVE YEAR PLAN

Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, that recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Housing Choice Voucher (HCV) Program, is described in and implemented throughout this Administrative Plan, known hereafter as the "Plan".

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **City of Mesquite Housing and Community Services Department, known hereafter as the Housing Division.** The officials of the Housing Division are known as the Mayor and Council Members, or collectively, as the City Council, and the City Manager. These officials generally serve in the same capacity as the directors of a corporation, establishing policies under which the Housing Division conducts business, ensuring that policies are followed by staff and ensuring that the Housing Division is successful in its mission. The staff is responsible for preserving and expanding the agency's resources and assuring the HCV program's continued viability.

The principal staff member of the Housing Division is the Manager of Housing & Community Services, hired by the City's Director of Housing and Community Services. The Manager is directly responsible for carrying out the Department of Housing and Urban Developments (HUD) HCV rules and regulations, program policies, the City's personnel policies, as well as all federal, state and local fair housing laws and regulations. The Manager is delegated the responsibility for hiring, training and supervising of the Housing Division's staff in order to manage the day-to-day operations of the Housing Division to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Manager's duties include budgeting and financial planning for the agency.

Special Programs :

Project Based Voucher Program: The Housing Division may choose to implement a project based program. The Housing Division may set aside up to 20% of HCV funding to provide affordable housing opportunities under the project based feature of the HCV program. The policies administering the City of Mesquite Project based program are located at Addendum A of the Administrative Plan.

Homeownership Program: The Housing Division may choose to implement a Homeownership program. The Housing Division may set aside up to ten vouchers in order to provide affordable homeownership solutions under the homeownership feature of the HCV program. The policies administering the City of Mesquite Homeownership program are located at Addendum B of the Administrative Plan.

Homelessness Program : The Housing Division may choose to implement a Homelessness Program. The Housing Division may set aside up to twelve vouchers in order to expand housing opportunities for individuals and families experiencing homelessness.

Tenant Protection Voucher Program: The Housing Division may choose to implement the Foster Youth to Independence (FYI-TPV) initiative. The Housing Division may set aside up to 25 vouchers in order to serve youth between the ages of 18-25 with a history of child welfare involvement. The policies administering the City of Mesquite FYI-TPV program are the same as the HCV program, unless stated otherwise.

Jurisdiction

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the City of Mesquite Housing and Community Services Department, known hereafter as the Housing Division for the jurisdiction of the City of Mesquite's HCV program includes the city limits of Mesquite and twenty-five (25) miles outside the city limits.

A. HOUSING DIVISION MISSION STATEMENT

The mission of the City of Mesquite Housing Division is to encourage independence, provide housing assistance and family stability throughout the city to the families we serve, by following HUD guidelines with consistent, professional, customer service and teamwork.

B. LOCAL GOALS AND HOUSING DIVISION'S COMMITMENT TO ETHICS ANDSERVICE

[24 CFR 982.1]

The Housing Division has the following goals for the program:

Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.

Encourage self-sufficiency of participant families and assist in the expansion of family opportunities that address educational, socio-economic, recreational and other human service's needs.

Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.

Promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.

Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

Create positive public awareness and expand the level of family, owner, and community support in accomplishing the Housing Division's mission. Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.

Administer an efficient, high-performing agency through continuous improvement of the Housing Division's support systems and commitment to our employees and their development.

The Housing Division will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The Plan is required by HUD. The purpose of the Plan is to establish policies for carrying out the HCV Program administered by the City of Mesquite in a manner consistent with HUD requirements and local goals and objectives contained in the City of Mesquite's Five Year and Annual Agency Plan. This Plan is a supporting document to the Five Year and Annual Agency Plan, and is available for public review as required by CFR 24 Part 903.

The Housing Division is responsible for complying with all changes in HUD regulations pertaining to HCV program administered by City of Mesquite. If such changes conflict with this Plan, HUD regulations will have precedence. The Housing Division will revise this Plan as needed to comply with changes in HUD regulations. The original Plan and any changes must be formally adopted by the Mesquite City Council, and the revised section must be documented in the Five Year and Annual Agency Plan, a copy provided to HUD.

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. RULES AND REGULATIONS [24 CFR 982.52]

This Plan is set forth to define the Housing Division's local policies for operation of the HCV program administered by the City of Mesquite. All issues related to the HCV program not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Plan have been designed to ensure compliance with the consolidated Annual Contributions Contract (ACC) and all HUD-approved applications for program funding.

E. TERMINOLOGY

The City of Mesquite Department of Housing & Community Services is referred to as the "Housing Division" 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.

*Please see the **Glossary** for additional terms.*

F. FAIR HOUSING AND EQUAL OPPORTUNITY [24 CFR 982.54(d)(6)]

INTRODUCTION

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

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

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

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

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

It is the policy of the City of Mesquite 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, including:

Title VI of the Civil Rights Act of 1964

Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)

Executive Order 11063

Section 504 of the Rehabilitation Act of 1973

The Age Discrimination Act of 1975

Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)

Violence Against Women Reauthorization Act of 2013 (VAWA)

The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012 and further clarified in Notice PIH 2014-20

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

The Housing Division shall not deny any family or individual the equal opportunity to apply for or receive assistance under the HCV Program (Section 8) on the basis of race, color, sex, religion, familial status, age, disability, national origin, sexual orientation or gender identity (perceived or actual).

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

To further its commitment to full compliance with applicable Civil Rights laws, the Housing Division will provide Federal/State/local information to the families and owners 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 families briefing packet and available upon request at the front desk. The Housing Division will inform the family of the opportunity to rent in a broad range of neighborhoods. The Housing Assistance Payment (HAP) contract informs the owners of the requirement not to discriminate against any person because of race, color, sex, religion, familial status, age, disability, national origin, sexual orientation or gender identity (perceived or actual) in connection with the contract.

All Housing Division staff will be required to attend fair housing training and will be 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 Division offices and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organization to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21 (c)(l), 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 Housing Division's facilities are inaccessible to or

unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Housing Division's office in such a manner as to be easily readable from a wheelchair.

The City of Mesquite's offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided through a TDD phone number that is the same as Housing Division's phone number.

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the Housing Division either orally or in writing. The City of Mesquite also has a Fair Housing Administrator that can assist the applicant or participant with their complaint. The Fair Housing Administrator is a member of the Housing & Community Services Department, but not a staff person in the Housing Division.

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

The Housing Division will attempt to remedy discrimination complaints made against the Housing Division and make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any corrective action.

A record of all complaints, investigations, notices, and corrective action will be kept by Fair Housing Administrator [Notice PIH 2014-20]

Housing Division will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/2012]

Discrimination Complaints
If an applicant or participant believes that any family member has been discriminated against by the Housing Division or an owner, the family should advise the Housing Division Fair Housing Administrator. HUD requires the Housing Division to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the Housing Division is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].
• Upon receipt of a housing discrimination complaint, the Fair Housing Administrator is required to:
• Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
• Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
• Keep records of all complaints, investigations, notices, and corrective actions
[Notice PIH 2014-20]
PHA Policy
Applicants or participants who believe that they have been subject to unlawful discrimination may notify the Housing Division either orally or in writing.

Within 10 business days of receiving the complaint, the Housing Division will provide a written notice to those alleged to have violated the rule. The Housing Division will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).
The Housing Division will attempt to remedy discrimination complaints made against the Housing Division and will conduct an investigation into all allegations of discrimination.
Within 10 business days following the conclusion of the Housing Division's investigation, the Housing Division will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.
The Housing Division will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 12.)

G. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26
A person with a disability may require special accommodations in order to have equal access to the HCV program.

The types of reasonable accommodations the Housing Division can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the Housing Division treat the information as a request for a reasonable accommodation, even if no formal request is made. The Housing Division will encourage the family to make its request in writing using a reasonable accommodation request form. However, the Housing Division will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

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

Types of Reasonable Accommodations

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

Permitting applications and reexaminations to be completed by mail.
Conducting home visits.
Using higher payment standards if the Housing Division determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.

Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit.
Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with Housing Division staff.
Displaying posters and other housing information in locations throughout the Housing Division's office in such a manner as to be easily readable from a wheelchair.

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

If the need for the accommodation is not readily apparent or known to the Housing Division staff member, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. Before making a determination whether to approve the request, the Housing Division may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the Housing Division may verify the need for the requested accommodation.

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

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

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

H. PHYSICAL ACCESSIBILITY

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

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

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

This Plan describes the key policies that govern the Housing Division's

responsibilities with regard to physical accessibility.

Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.

The Housing Division's Five Year Plan and Annual Plan provide information about self-evaluation, needs assessment, and transition plans.

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

When issuing a voucher to a family that includes an individual with disabilities, the Housing Division will include a current list of available accessible units known to the Housing Division and will assist the family in locating an available accessible unit, if necessary.

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

I. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the Housing Division to ensure that persons with disabilities related to hearing and vision have reasonable access to the HCV programs and services [24 CFR 8.6]. At the initial point of contact with each applicant, the Housing Division shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

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

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

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

J. IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISHPROFICIENCY(LEP)

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

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

The City of Mesquite has identified that 22.6% of the City of Mesquite speaks Spanish as the primary language at home (2010 US Census).

The Housing Division has determined that it is reasonable to train and hire Spanish/English bilingual staff to be available to act as interpreters and translators and to pool resources with other City departments/staff to act as interpreters when needed.

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

The Housing Division will use various HUD resources to provide written language translations for important HCV program documents. The Housing Division will also translate public announcements of wait list openings in the Spanish language.

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

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

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

A. ELIGIBILITY FACTORS [982 .201(b)]

The Housing Division 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 the Department of Housing & Urban Development's (HUD) criteria, as well as any permissible additional criteria established by the Housing Division.

The HUD eligibility criteria are:

Qualify as a family as defined by HUD and the Housing Division.

Have income at or below HUD-specified income limits

An applicant must furnish Social Security Numbers for all family members as required

Qualify on the basis of citizenship or the eligible immigrant status of family members

Consent to Housing Division's collection and use of family information as provided for in Housing Division-provided consent forms

Provide social security number information for household members as required.

Housing Division must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or Housing Division.

The family's initial eligibility and evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for the final eligibility processing for issuance of a Voucher.

B. FAMILY AND HOUSEHOLD [24 CFR 982.20I(c)] FR Notice 02/03/12; Notice PIH 2014-20]

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

Family

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

Gender Identity means actual or perceived gender characteristics.
Sexual orientation means homosexuality, heterosexuality, or bisexuality

HUD regulations (CFR 982.201) require that the Housing Division determine if any other group qualifies as a family. The City of Mesquite also defines a family as:

> Two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously in a stable relationship or certify that each individual's income and other resources will be available to meet the needs of the family.
>
> Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Definition of Family

A "family" may be a single person or a group of persons. The definitions of a "disabled family", "elderly family", "family", and "near elderly family" are as follows:

Disabledfamily means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living with one or more-live-in aides.

Elderlyfamily means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more-live-in aides.

Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or

(2) A group of persons residing together, and such group includes, but is not limited to:

i. A family with or without children (a child who is temporarily away from the home because of placement in a foster care is considered a member of the family);

ii. An elderly family;

iii. A near elderly family;

iv. A displaced family; and

v. The remaining member of a tenant family

Near-elderlyfamily means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

Head of Household . **[24 CFR 5.504(b)]**

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

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

Spouse, Cohead, and other Adult

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

Spouse means the marriage partner of the head of household.

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

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

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

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

Live-in Aide

A *live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being

of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

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

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

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.

A live-in aide may only reside in the unit with the approval of the Housing Division. 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 or disabled.

The Housing Division 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 Plan.

At any time, the Housing Division 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 Housing Division or to another Housing Division in connection with Section 8 or public housing assistance under the 1937 Act.

Vulnerable Youth

A vulnerable youth is an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16 : The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison
The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
A financial aid administrator

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 Housing Division will make the decision of who will remain on the waiting list 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
Role of domestic violence in the split
Recommendations of social service agencies or qualified professionals such as children's protective services

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.

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 Housing Division. If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the Housing Division must ensure that the victim retains assistance, as long as the family meets the documentation requirements.

In the absence of a judicial decision or an agreement among the original family members, Housing Division will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, Housing Division 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 or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

Multiple Families in the Same Household

When families apply that 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 Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

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

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

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the HCV program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size. Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits.

To be eligible for assistance a family must:

> Have an annual income at the time of admission that does not exceed the extremely low income limits for occupancy established by HUD (HUD's 30 percent of the area median income).

The Housing Division will not admit families whose income exceeds 30 percent of the area median income except those families included in 24 CFR 982.201(b).

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

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

D. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the Housing Division must reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families."

The Housing Division will admit only families who qualify under the Extremely Low Income limit and will exceed this income targeting requirement. These income limits are applicable to any incoming portable family that is not continuously assisted and is a new admission.

The Housing Division's income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act, that would include any participant from another Housing Division's jurisdiction that is porting into our jurisdiction.

The Housing Division's is also exempted from this requirement where the Housing Division 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. MANDATORY SOCIAL SECURITY NUMBERS
[24 CFR 5.2 16, 5.218 and PIH 2010-3)]

Families are required to provide verification of Social Security Numbers for *allfamilymembers* 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. These requirements do not apply to noncitizens who do not contend eligible immigration status.

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. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

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

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

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

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

Declaration [24 CFR 5.508]
HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect

not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the Housing Division to request additional documentation of their status, such as a passport or birth certificate; therefore, the Mesquite Housing Division will require that each family member provide a birth certificate and/or passport.

Eligible Noncitizens

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

Ineligible Noncitizens

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

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

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen 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.

Ineligible Families

The Housing Division will not provide assistance to a family before the verification of at least one family member.

When a Housing Division determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the Housing Division. The informal hearing with the Housing Division may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Non-citizen Students

Non-citizen students as defined by HUD in the non-citizen regulations at 24 CFR 5.522 are not eligible for assistance.

Appeals

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

Time Frame for Determination of Citizenship Status

The Housing Division 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.

For new occupants joining the assisted family, the Housing Division must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first. If an individual qualifies for a time extension for the submission of required documents, the Housing Division must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

G. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.230, HCV GB, p. 5-13]

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

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

H. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

[24 CFR 5.612 and FR Notice 4/10/06]

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

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

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

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the Housing Division will rely on the following definitions [Federal Register 4/10/06, p. 18148]:

DependentChild

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

IndependentStudent

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

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student. To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:
  - The individual is at least 24 years old by December 31 of the award year for which aid is sought
  - The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
  - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
  - The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes
  - The individual is a graduate or professional student

The individual is married
The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly
The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
A local educational agency homeless liaison
The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
A financial aid administrator
The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances
The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.
If the Housing Division determines that an individual meets the definition of a vulnerable youth, such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.
The Housing Division will verify that a student meets the above criteria.

Determining Student Eligibility

For any student who is subject to the 5.612 restrictions, the Housing Division will:
Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program:
Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section
Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

If the Housing Division determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the Housing Division will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 12- Part III.
.

Determining Parental Income Eligibility

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

For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents, stepparents (as long as they are currently

married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).
If the student's parents are married and living together, the Housing Division will obtain a joint income declaration and certification of joint income from the parents.
If the student's parent is widowed or single, the Housing Division will obtain an income declaration and certification of income from that parent.
If the student's parents are divorced or separated, the Housing Division will obtain an income declaration and certification of income from each parent.
If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the Housing Division will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The Housing Division will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

I. MANDATORY DENIAL OF ADMISSION [24 CFR 982.553(a)]

HUD requires the Housing Division to deny assistance in the following cases:

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

The Housing Division determines that any household member is currently engaged in the illegal use of drugs. *Currently engaged in* is defined as any use of illegal drugs during the previous 12 months.

The Housing Division 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.

In determining reasonable cause, Housing Division 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 conviction will be given more weight than an arrest. Housing Division will also consider evidence from treatment providers or community-based organizations providing services to household members.

Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
If any household member has ever been convicted of drug-related activity for the productions or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied assistance

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

The Housing Division will not admit any family that has violated any family obligation during a previous participation in the HCV program administered by any other housing agency that has resulted in a termination. The Housing Division may admit a family in circumstances where the head of household or person involved in the family obligation/ termination no longer lives in the household.

The Housing Division will not admit an otherwise-eligible family who was evicted from federally-assisted housing for drug-related criminal activity. The Housing Division may admit a family in circumstances where the head of household or person involved in the drug-related criminal activity no longer lives in the household.

The Housing Division will deny any family member who must register as sex offender.

The Housing Division will not admit any family that has an outstanding debt owed to the Housing Division or another Housing Division as a result of prior participation in any federal housing program within 30 calendar days of Housing Division notice to repay. Debt must be paid in full, unless the following paragraph is applicable:

Family must be in good standing regarding any current repayment agreement made with another Housing Division for a previous debt incurred.

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the Housing Division may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition.

J. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Criminal Activity [24 CFR 982.553]
If any household member is currently engaged in, or has engaged in any of the following criminal activities, in the past ten years, the family will be denied assistance:

Drug-related criminal activity, 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 [24 CFR 5.100]. The Housing Division will deny assistance on all drug related offenses, whether they be misdemeanors or felonies.

Violent criminal activity, defined by HUD as 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 [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

Immediate vicinity means within a three-block radius of the premises.

Any felonious criminal activity.

Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the Housing Division (including a Housing Division employee or a Housing Division contractor, subcontractor, or agent).

Evidence of such criminal activity includes, but is not limited to:

Any conviction for drug-related activity, violent criminal activity, or any felonious criminal activity within the past 10 years.
Records of arrests for drug-related or violent criminal activity within the past 10 years, although a record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

A conviction for drug-related, violent criminal activity or other felonious criminal activity will be given more weight than an arrest for such activity, but the Housing Division will use the later date of the conviction or the arrest to determine the 10-year time frame.

Deferred adjudications do not negate the criminal offenses and are still chargeable in rendering eligibility decisions of applicants.

Previous Behavior in Assisted Housing [24 CFR 982.552(c)] 982.314(E)(2)
The Housing Division **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

The Housing Division **will** deny assistance to an applicant family if:

The family does not provide information that the Housing Division or HUD determines is necessary in the administration of the program.
The family does not provide complete and true information to the Housing Division.
Any family member has been evicted from federally-assisted housing in the last five years.

Any Housing Division has ever terminated assistance under the program for any member of the family.
Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
The family owes rent or other amounts to the Housing Division in connection with HCV Program or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.
The family has breached the terms of a repayment agreement entered into with the Housing Division, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
A family member has engaged in or threatened violent or abusive behavior toward Housing Division personnel.

Abusive or violent behavior towards Housing Division 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.

K. CRITERIA FOR DECIDING TO DENY ASSISTANCE Evidence [24 CFR 982.553(c)]; PIH Notice 2012-28

The Housing Division will perform criminal background checks through reporting agencies on criminal records or local law enforcement for every adult household member and determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided. Housing Division will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

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

The Housing Division will use the concept of the preponderance of the evidence as the standard for making all admission decisions. *Preponderance of the evidence* is defined as evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it; that is, evidence that as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

HUD authorizes the Housing Division to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history, except in the situations for which denial of assistance is mandated.

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

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

While a record of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the Housing Division may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Housing Division may also consider:

> Any statements made by witnesses or the applicant not included in the police report
>
> Whether criminal charges were filed
>
> Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
>
> Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

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

In the case of drug or alcohol abuse, the Housing Division will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]
Should the Housing Division screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the Housing Division must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the Housing Division must deny admission to the family [Notice PIH 2012-28].

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

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon Housing Division request.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]
Housing Division's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)]. When applicants with disabilities are denied assistance, the notice of denial must inform them of the Housing Division's informal review process and their right to request an informal review hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review hearing process. When a participant family's assistance is terminated, the notice of termination must inform them of Housing Division's informal hearing process and their right to request a hearing and reasonable accommodation. When reviewing reasonable accommodation requests, Housing Division must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to Housing Division's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, Housing Division must make the accommodation.

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

L. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the Housing Division will notify the family when it extends the invitation to attend the voucher briefing appointment.

If the Housing Division determines that a family is not eligible for the program for any reason, the family must be notified within 10 days of initial eligibility appointment (if all information has been supplied to the Housing Division). The notice must describe: (1) the reasons for that assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)].

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the Housing Division will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the Housing Division to dispute the information within that 10-day

period, the Housing Division will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

M. TENANT SCREENING [24 CFR 982.307)]

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

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before the approval of the tenancy, the Housing Division 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 behavior or tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

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

The Housing Division will give the owner:

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

The Housing Division will offer the owner, upon their request, other information in the Housing Division's possession concerning the family's tenancy history, after notification to the family.

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

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

N. 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.

O. 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 noncitizen status.

P. PROHIBITED ADMISSIONS CRITERIA [24 CFR 982.202(b), Equal Access Rule, VAWA 2013]

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

- Age, disability, race, color, religion, sex, national origin, sexual orientation or gender identity
- 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 Housing Division's jurisdiction under portability)
- 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, or stalking if the applicant is otherwise qualified for assistance

Q. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING

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

Notification

VAWA 2013 expanded notification requirements to include the obligation for Housing Division's to provide applicants who are denied assistance with a notice of rights and the form HUD-50066 at the time the applicant is denied.

The Housing Division acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Housing Division's policies. Therefore, if the Housing Division makes a determination to deny admission to an applicant family, the Housing Division will include in its notice of denial the VAWA information described in section 12- IX.C of this plan as well as including a copy of the form HUD-5382. The Housing Division will request in writing that an applicant wishing to claim protection under VAWA notify the Housing Division within 14 business days
.

Victim Documentation [24 CFR 5.2007]
If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, the Housing Division will request in writing that the applicant provide documentation supporting the claim.

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

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

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

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

The policy of the Housing Division is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply for and receive housing assistance, and that the Housing Division affirmatively further fair housing goals in the administration of the program.

This chapter describes HUD and Housing Division policies for taking applications, managing the waiting list and selecting families for HCV assistance. The Housing Division is also obligated to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

Any family that wishes to receive HCV assistance must apply for admission to the program. The Housing Division will receive on-line applications for the waiting list that will be submitted to a web-based program that collects all applications during a designated term. The Housing Division will maintain a single waiting list for the HCV program. [24 CFR 982.204]

No preliminary assessment of eligibility or ineligibility will be performed until the family reaches the top of the waiting list; however, the preliminary application will ask about local preferences to determine placement order on the waiting list. All families will be considered preliminarily eligible for placement to the waiting list. Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list. When family is selected, a full application will be completed and verified. If the Housing Division determines that the family was not eligible for the preference claimed, the family's application will be placed back on the waiting list in the proper order.

Housing Division staff will be available to assist elderly, disabled or LEP persons in submitting the on-line applications during regular business hours. Such persons may come in person to the Housing Division office for submission of their applications.

Applicants will be placed on the waiting list according to the date and time their completed application is received by the Housing Division or by lottery method, whichever is provided for in the notice of waitlist opening.

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

The Housing Division will utilize the following procedures for opening the waiting list:

> The Housing Division 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.

When the Housing Division opens the waiting list, the Housing Division will conduct the necessary outreach to ensure that the Housing Division has a sufficient number of applicants. Outreach efforts will comply with Fair Housing Requirements such as ensuring that under-represented populations are identified and targeted. The Housing Division will advertise through public notice in local newspapers and numerous public social service agencies or private entities that serve the homeless, unemployed, disabled and elderly and other potentially eligible persons:

- Newspapers of general population distribution: Mesquite News, Dallas Morning News
- Minority newspapers: El Sol de Texas and Dallas Weekly or other publications that may serve minority groups in the community
- Mesquite Social Services, Salvation Army, The Family Place, New Beginning Center, Sharing Life Community Outreach, The Bridge
- Mesquite Recreation Centers
- Local offices of the Texas Workforce, Texas Rehabilitation Commission and Texas Department of Human Services
- Mesquite Health Clinic
- Current participating apartment complexes

The notices will comply with HUD fair housing requirements and must specify who may apply, and where and when and how applications will be received.

Closing the Waiting List

The Housing Division may close the waiting list if there are enough applicants to fill anticipated openings for the next 24 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The Housing Division is not required to announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 or more months.

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

The Housing Division will utilize a pre-application form. Pre-applications will be provided through the internet and accepted electronically. Applicants certify and acknowledge release or consent for Housing Division's performing of the screening criteria, and to the accuracy of the pre-application submission.

To provide specific accommodation for persons with disabilities, and upon request, staff may assist those applicants.

The purpose of the pre-application is to permit the Housing Division to determine order of placement on the waiting list. The pre-application will contain at least the following information:

- Names of applicant and any family member expected to reside with applicant
- Addresses: Physical and any mailing address
- Family Status: Single, Small , Large, Elderly or Disabled Family
- Date and time of application or ranking number of application if lottery method is used.
- Racial or ethnic designation of the head of household
- History of any previous participation in subsidized housing
- Local preference claim (veteran, elderly, disabled, and/or working family)

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

Applicants are required to inform the Housing Division of changes in mailing address. Applicants must report all changes in writing. Changes can be accepted via fax, mail, email, online self-service module (if available), or in person during business hours. The Housing Division will not accept any changes that are not submitted in writing.

An applicant family may request to be removed from the waiting list in writing using the same methods listed above.

E. UPDATING THE WAITING LIST [24 CFR 982.204]

The Housing Division will update the waiting list annually by requesting updated contact information from each applicant on the waiting list. If the applicant family fails to respond within 10 business days or correspondence is returned as undeliverable with no forwarding address to the Housing Division, the applicant family will be withdrawn from the waiting list. 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 10 business days to respond from the date the letter was re-sent. If the applicant did not respond to Housing Division request for information or updates because of the family member's disability, the Housing Division must reinstate the applicant family to their former position on the waiting list.

If the applicant family indicates that they are a participant in a HCV program administered by another housing agency, the applicant will be removed from the waiting list.

A notice will be sent to the family's address of record and any forwarding address on returned mail. 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 Housing Division's decision [24 CFR 982.201(f)].

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by MHD not later than 10 business days from the date of the PHA letter. If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

F. SELECTION FOR HCV ASSISTANCE AND ORDER OF SELECTION [24 CFR 982.204]

As vouchers become available, families will be selected from the waiting list in their previously determined sequence, regardless of family size. The Housing Division will maintain a clear record of all information required to verify that the family is selected from the waiting list according to the Housing Division's selection policies [24 CFR 982.204(b) and 982.207(e)].

Based on the Housing Division'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 process.

The Housing Division system of preferences may select families either according to the date and time of application, or by a random selection process (lottery ranking) [24 CFR 982.207(c)]. When selecting families from the waiting list, the Housing Division is required to use targeted funding to assist only those families who meet the specified criteria, and the Housing Division is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

Special Admissions [24 CFR 982.203]
HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the Housing Division may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The Housing Division must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]
HUD may award a Housing Division funding for a specified category of families on the waiting list. The Housing Division must use this funding only to assist the families within the specified category.

Local Preferences [24 CFR 982.207]
HUD permits the Housing Division to establish a system of local preferences for selection of families admitted to the program. The system of local preferences must be based on local housing needs and priorities. The City of Mesquite has determined that the following preferences will be offered:

- A preference to any family that has been terminated from the HCV program due to insufficient program funding. This preference will receive the highest ranking.

- The working family and veteran family preference will receive equal ranking and shall be ranked second to any family that has been terminated from the HCV program due to insufficient program funding.
- A preference for working families (families where the head, spouse, co-head or sole member is employed.) An applicant family shall be given the benefit of the working family preference if the head, spouse, co-head or sole member is elderly (age 62 and over) and/or disabled.

Homelessness Preference [24 CFR 982.207]

- The Homelessness Program will offer a preference to any family experiencing homelessness within the locality of Mesquite. The preference shall be limited to applicants who meet the homeless criteria as defined by HUD. The preference is limited to families that live, work, or attend school in Mesquite.

Homelessness is defined as:
An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or
b. 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
c. 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; or

Any individual or family who:
a. Is ***fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking***, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; ***and***
b. Has no other residence; ***and***
c. Lacks the resources or support networks, e.g., family, friends, and faith- based or other social networks, to obtain other permanent housing

G. NOTIFICATION OF SELECTION

The Housing Division will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of a scheduled group pre-briefing to explain documents and information needed for determining their eligibility
- Who is required to attend

If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The Housing Division will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without the Housing Division's approval, will be denied assistance (see Chapter 4 Initial Briefing)

H. THE APPLICATION INTERVIEW

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the Housing Division.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the Housing Division will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 calendar days of the interview. In certain cases, longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status, may be granted. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. The family will be sent a notice of denial if the required documents and information are not provided within the required time frame (plus any extensions),

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the Housing Division will provide translation services to applicants whose primary language is Spanish in accordance with the Housing Division's LEP plan. The Housing Division may make a reasonable accommodation that may include translation services to other LEP applicants whose primary language is not Spanish.

If the family is unable to attend a scheduled interview, the family should contact the Housing Division in advance of the interview to schedule a new appointment. Applicants who fail to attend a scheduled interview without Housing Division approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued.

I. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the Housing Division's verification procedures. 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.

J. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY/ INELIGIBILITY [24 CFR 982.201, 982.553(c)]

After the full application and verification process is completed, the Housing Division will make a final determination of eligibility or ineligibility. This decision is based upon information provided by the family, the verification completed by the Housing Division, and the current eligibility criteria in effect. If the family is determined ineligible, the applicant will be notified in writing within 30 days of determination and offered an opportunity to request an informal review. If the family is determined to be eligible, a briefing will be scheduled for issuance of a voucher and the family's orientation to the housing program.

In making its decision to deny assistance, the Housing Division will consider the factors discussed in Section 2-I (Mandatory Denial of Assistance). Upon consideration of such factors, the Housing Division may, on a case-by-case basis, decide not to deny assistance.

K. SPECIAL ADMISSIONS [24 CFR 982.54(d)(3), 982.203]

If HUD awards a Housing Division program funding that is targeted for specifically named families, the Housing Division 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 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 Homeownership Act of 1990;
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

- A non-purchasing family residing in a HOPE 1 or HOPE 2 project
- A youth is someone that will be 18 at the time of voucher issuance but no older than 24 at time of HAP execution. (Limited to a maximum award of 25 vouchers per fiscal year.)
- A youth will be referred to MHD from a public child welfare agency that MHD has a memorandum of understanding or letter of intent between the parties on file.

L. TARGETED FUNDING [24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify will be placed on the regular waiting list. When a specific type of funding becomes available, the waiting list will be searched for the first available family meeting the targeted funding criteria. Currently, the Housing Division does not have any "Targeted" programs.

Chapter 4

SUBSIDY STANDARDS & VOUCHER ISSUANCE

[24 CFR 982.54(d)(9)] & [24 CFR 982.301, 982.302]

INTRODUCTION

HUD guidelines require that the Housing Division 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 HQS (HQS). The first three sections of this chapter explain the subsidy standards that 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 Housing Division's procedures when a family's size changes or a family selects a unit size that is different from the Voucher.

The Housing Division'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 Housing Division 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, Housing Division procedures, and how to lease a unit. The family will also receive a briefing packet that provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. The following sections of 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 processed.

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

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

The following requirements apply when the Housing Division determines family unit size:

- The subsidy standard must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standard must be consistent with space requirements under HQS.
- The subsidy standard must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman must be treated as a two-person family.

- Any live-in aide (approved by the Housing Division to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size. Live-in aides will be allocated a separate bedroom. No additional bedrooms will be allocated for live-in aide's family.
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person will be a one-bedroom unit;
- Two (2) people will be required to share a room regardless of the sex or age. MHD may approve an exception to the rule for a person with disabilities. The living area may be considered a sleeping room for occupancy purposes.

The Housing Division will reference the following chart in determining the appropriate voucher size for a family:

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

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

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

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

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

The family must request any exception to the occupancy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination through annual re-inspection.

If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

Housing Division Error
If the Housing Division errs in the bedroom size designation, the family will be issued a voucher of the appropriate size prior to HAP contract execution or at the next annual reexamination.

Changes for Applicants
The voucher size is determined prior to the briefing by comparing the family composition to the Housing Division occupancy standards in order to determine the maximum subsidy. If an applicant requires a change in the voucher size, based on the requirements of the Housing Division occupancy standards, the above-referenced guidelines will apply.

Changes for Participants
The members of the family residing in the unit must be approved by the Housing Division. The family must obtain approval of any additional family member before the new member occupies the unit. In cases of additions by birth, adoption, or court-awarded custody, the family must inform the Housing Division within 30 calendar days in writing by completing an "interim change form".

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

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

Subsidy Limitation: The family unit size as determined for a family under the occupancy standard for a family assisted in the voucher program is based on the adopted payment standards.

The payment standard for a family shall be the *lower of*

a. The payment standard amount for the family's Voucher unit size; or
b. The payment standard amount for the actual unit size rented by the family.

Utility Allowance: The Housing Division-established utility allowance schedule is used in determining family share and Housing Division subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using Housing Division subsidy standards, whichever is the lowest of the two.

HQS: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The maximum number in household may be exceeded if an additional room (such as study/den) is used for sleeping.

HQS GUIDELINES FOR UNIT SIZE SELECTED

Unit Size	Max Number in Household
0 Bedroom	1
1 Bedroom	4
2 Bedroom	6
3 Bedroom	8

4 Bedroom	10

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

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

The Housing Division may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers that are over-issued must be honored. If the Housing Division 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.

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

Applicant Pre-Briefing

A pre-briefing will be conducted for applicant families that have been selected from the waiting list. The pre-briefings will be conducted in group meetings to explain the full application and verification process. If an applicant is unable to attend the scheduled group pre-briefing, an individual pre-briefing will be scheduled. The pre-briefing is mandatory.

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance, including incoming portable families. The briefings will be conducted in individual meetings. Briefings will be conducted in English. Briefings may also be conducted in Spanish when requested.

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

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

F. BRIEFING PACKET [24 CFR 982.301 (b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. The Housing Division also includes other information and materials that are not required by HUD.

The family is provided with the following information and materials:

- The term of the voucher, and the Housing Division policy for requesting extensions or suspensions of the voucher (referred to as tolling).
- A description of the method used to calculate the HAP for a family, including how the Housing Division determines the payment standard, the total tenant payment, utility allowance schedule, and how the Housing Division determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit, explanation of portability, who qualifies to lease a unit outside the Housing Division jurisdiction under portability procedures, and how portability works.
- The required Tenancy Addendum form, HUD-52641-A, that must be included in the lease.
- The required RTA, HUD-52517, that 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 Housing Division policy on providing information about families to prospective owners.
- The Housing Division payment standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD-593-PIH (9) brochure, “A Good Place to Live”, on how to select a unit that complies with HQS, and a Housing Division list of HQS item s to look for when searching for an approvable unit.
- The US Environmental Protection Agency’s pamphlet on lead based paint entitled Protect Your Family from Lead in your Home.
- The HUD-1260-FHEO pamphlet, "Fair Housing: It's Your Right" regarding equal opportunity and fair housing laws (pamphlet includes a copy of the housing discrimination complaint form).
- A list of landlords and a list of apartment complexes willing to lease to assisted families, with amenities offered at each apartment complex is included. (All properties under these landlords and apartment complexes are outside areas of poverty or minority concentration).
- If the family includes a person with disabilities, notice that the Housing Division will provide a list of available accessible units known to the Housing Division
- The family obligations under the program.
- The grounds on which the Housing Division may terminate assistance for a participant family because of family action or failure to act.

- Housing Division informal hearing procedures including when the Housing Division is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- City map and list of important phone numbers (utility companies, social service agencies, Texas state agencies, post office, county tax offices, etc.); this list also includes neighboring Housing Divisions' names, addresses and phone numbers (Contact names at a particular housing office will be provided upon family's request to port).
- Procedures for notifying the Housing Division and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
- The family's rights as a tenant and a program participant.
- Requirements for reporting changes between annual re-certifications.
- Information on security deposits and legal referral services.
- Information on exercising choice in residency, choosing a unit carefully and only after due consideration.
- Overview of the Family Self Sufficiency program and its advantages.
- Information on how to fill out and file a housing discrimination complaint form
- The form HUD-5380 domestic violence certification form and the form HUD 5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking
- "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

Move Briefing

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

Owner Briefing

Prospective owners who contact the Housing Division will be sent an "Owner's Briefing Packet". The packet of information covers the responsibilities and roles of the three parties (tenant, owner, and the Housing Division). After review of the information, any interested owner may request to be added to the landlord list. Although not required, owners will also be encouraged to use online listings such as GoSection8.com. The Housing Division will provide information sessions for prospective new owners and current owners at least annually in order to recruit owners and encourage participation in the HCV program.

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

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

H. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The Housing Division will give participants a copy of HUD Form 903 to file a complaint.

I. TERM OF VOUCHER [24 CFR 982.303, 982.54(d) (l I)]

During the briefing session, each household will be issued a voucher that represents a contractual agreement between the Housing Division and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program; that occurs when the lease and contract become effective.

Voucher Term [24 CFR 982.303]
The initial term of the voucher is 60 days.

The family must submit a RTA and proposed Lease within the sixty-day period unless an extension has been granted by the Housing Division prior to the expiration of the voucher.

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

Suspensions
The Housing Division will not suspend or "toll" the time on the voucher if the family submits an RTA before the voucher term expires. "Suspension" means stopping the clock on a family's voucher term from the time a family submits the RTA until the time the Housing Division approves or denies the request [24 CFR 982.4]. The Housing Division's determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

The Housing Division will take into consideration circumstances where a unit has failed inspection, the rent could not be negotiated to a reasonable amount or if additional search time is needed as a reasonable accommodation. In those cases, the family may be eligible for an extended search time for submission of a new RTA.

Extensions [24 CFR 982.303(b)]
The Housing Division will automatically approve one 60-day extension, upon request from the family, as long as the request is received before the expiration of the initial 60-day term. Maximum term will be 120 days, unless term is suspended or needed as a reasonable accommodation.

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

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

Expiration of Voucher Term

Once a family's 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 Housing Division will require that the family reapply. 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.

If an applicant family's voucher term or extension expires before the family has submitted a RTA the family will be filed inactive without further notice.

Should a youth fail to use the FYI voucher, MHD must notify HUD, and HUD will reduce the baseline inventory. FYI-TPVs "sunset" when the youth leaves the program. This means MHD cannot reissue the assistance to another youth. When the youth exits the FYI-TPV program, HUD will reduce MHD's HCV baseline inventory.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the Housing Division Office to request assistance. Voucher holders will be notified at their briefing session that the Housing Division periodically updates the listing of available units and how the updated list may be obtained. The Housing Division will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

J. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS

[24 CFR 982.315]

In those instances when a family assisted under the HCV 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 Administrator of Housing 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.
- Any recommendations of social service professionals.

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

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

K. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF THE VOUCHER [24 CFR 982.315]

In cases where a head of household, co-head, or spouse is no longer residing in the unit (vacated the unit or death), the voucher can be issued to a remaining member of the family. A person can be considered a remaining member of the tenant family if they were an authorized family member during the course of the tenancy as an original family member and are of legal capacity.

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
- The Housing Division has to have verified that social services and/or a Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

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

Chapter 5

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 Housing Division's subsidy. The Housing Division 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 the Housing Division's 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 the Housing Division's policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the Housing Division to subtract from annual income any of five mandatory deductions that a family qualifies for. These requirements and the Housing Division policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and Housing Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining housing subsidy and required family payment.

Part IV: Administrative and Regulatory Relief Affecting Income & Asset Determination. This part will describe any temporary policies allowed by HUD that may provide administrative or regulatory relief.

PART I: ANNUAL INCOME

I. A. OVERVIEW

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

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

(4) Annual income also means amounts derived (during the 12-month period) from assets that any member of the family has access to.

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

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

I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above $480/year is excluded [24 CFR 5.609(c) (11)]. All other sources of 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.

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. 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 policy are discussed below.

Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to

the Housing Division indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

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

If a child has been placed in foster care, the Housing Division 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 Co-head

An employed head, spouse, or co-head 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

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.

The Housing Division will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person 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.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Housing Division will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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

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

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that

would confirm that the caretaker's role is temporary. In such cases the Housing Division 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.

I.C. ANTICIPATING ANNUAL INCOME

The Housing Division 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)].

Basis of Annual Income Projection

The Housing Division will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the Housing Division to consider these additional factors when determining anticipated income:

- An imminent change in circumstances is expected
- 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 Housing Division believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

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

HUD allows the Housing Division to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the Housing Division does not determine it is necessary to obtain additional third-party data.

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

The Housing Division will obtain written and/or oral third-party verification in the following cases:

- If EIV or other upfront income verification (UIV) data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the Housing Division determines additional information is needed.

In such cases, the Housing Division will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the

decision, and a clear audit trail will be left as to how the Housing Division annualized projected income.

When the Housing Division cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Housing Division 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.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. The family may present information and documentation to the Housing Division to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the Housing Division verifies an upcoming increase or decrease in income, annual income will be calculated using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the Housing Division's policy on reexaminations does not require interim reexaminations for other types of changes.

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

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

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)].

For persons who regularly receive bonuses or commissions, the Housing Division will verify and then average amounts received for the preceding admission or reexamination. The family may provide, and the Housing Division 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 Housing Division will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]
This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

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

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

Certain Earned Income of Full-Time Students
Earnings in excess of $480 per year 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 (42 U.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)

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 that the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

The Housing Division defines *training program* as "a learning process with goals and objectives, 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 Housing Division 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 Housing Division 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 Housing Division'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, HCV administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

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.

I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617] Streamlining Final Rule (SFR) Federal Register 3/8/16

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 5-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

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

Calculation of the Disallowance

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

May 9, 2016, will be subject to the "Revised Calculation Method" Which shortens the lifetime disallowance period to 24 consecutive months.
Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

The Housing Division defines *prior income,* or *prequalifying income,* as the family member's last certified income (per interim or annual recertification) prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

During the 48 affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Revised Calculation Method

Initial 12-Month Exclusion

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

Housing Division Policy

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

Second 12-Month Exclusion

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

Housing Division Policy

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

Lifetime Limitation

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

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

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

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

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

Business Expansion
HUD regulations do not permit the Housing Division to deduct from gross income expenses for business expansion.

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

Capital Indebtedness
HUD regulations do not permit the Housing Division to deduct from gross income the amortization of capital indebtedness.

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

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

Withdrawal of Cash or Assets from a Business
HUD regulations require the Housing Division to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

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

Co-owned Businesses
If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

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

Overview

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

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

Exhibit 5-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 5-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and the Housing Division policies related to each type of asset.

Types of Assets

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

In determining the value of a checking account, the Housing Division will use the average monthly balance for the last 3 months.

In determining the value of a savings account, the Housing Division will use the current balance.

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

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

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

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

Equity in Real Property or Other Capital Investments

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

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

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

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

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

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

Division determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

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

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

Non-revocable Trusts
In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)].

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

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

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

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

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

In determining the value of personal property held as an investment, the Housing Division will use the family's estimate of the value. the Housing Division may obtain an appraisal to confirm

the value of the asset 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.

Personal property held as an investment usually does not generate any income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

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

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

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

General Policies

Income from Assets
The Housing Division will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the Housing Division to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the Housing Division 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 Housing Division can take into consideration past rental income along with the prospects of obtaining a new tenant.

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

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

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

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

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

Imputing Income from Assets [24 CFR 5.609(b)(3)]
When net family assets are $5,000 or less, the Housing Division will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the Housing Division will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

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

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

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

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Housing Division will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the Housing Division will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Housing Division will prorate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]
HUD regulations require the Housing Division to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

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

The Housing Division 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.

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

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

Separation or Divorce
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.

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

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

Family Declaration

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 Housing Division may verify

the value of the assets disposed of if other information available to the Housing Division does not appear to agree with the information reported by the family.

I.H. PERIODIC PAYMENTS

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

Periodic Payments *Included* in Annual Income

Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions are included in Annual Income. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum are included in income [24 CFR 5.609(b)(4) and HCV, p. 5-14].

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

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

When a delayed-start payment is received and reported during the period that the Housing Division is processing an annual reexamination, the Housing Division will adjust the family share and Housing subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the Housing Division.

Treatment of Overpayment Deductions from Social Security Benefits

The Housing Division must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the Housing Division must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Periodic Payments *Excluded* from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar

guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].

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

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c) (16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c) (17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c) (17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c) (17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments [24 CFR 5.609(b)(4)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

I .I. PAYMENTS IN LIEU OF EARNINGS

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

I.J. WELFARE ASSISTANCE

Overview

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

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

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

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

Imputed Income
When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the Housing Division must include in annual income "imputed" welfare income.

The Housing Division must request that the welfare agency inform the Housing Division when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

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

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

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

Alimony and Child Support
The Housing Division must count alimony or child support amounts awarded as part of a divorce or separation agreement.

The Housing Division will count court-awarded amounts for alimony and child support unless the Housing Division verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

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

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

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

STUDENT'S PARENT INCOME INCLUSION/EXCLUSION[24 CFR 5.612]
The Housing Division will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:
Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year, or reviewing and verifying
documentation relevant to determining whether the student meets the U.S. Department of Education's definition of independent student (see Section 2.H)
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 2.H)
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 2.H)

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

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

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

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

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.

- They are seeking or receiving HCV assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

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

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

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

<u>Student Financial Assistance *Excluded* from Annual Income</u> [24 CFR 5.609(c)(6)]

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

- Students residing with parents who are seeking or receiving HCV assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*

- Students who are over 23 **AND** have at least one dependent child
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c) (10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c) (12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c) (15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c) (16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c) (17)]. HUD publishes an updated list of these exclusions periodically. It includes:
    - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
    - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
    - Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
    - Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
    - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
    - Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
    - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

- The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

II.A. INTRODUCTION

Overview

HUD regulations require Housing Authorities to deduct from annual income any of five mandatory deductions that a family qualifies for. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [the Housing Division] must deduct the following amounts from annual income: (1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;
(3) The sum of the following, to the extent the sum exceeds three percent of annual income:
(i) Unreimbursed medical expenses of any elderly family or disabled family;
(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

The Housing Division will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the Housing Division 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 Housing Division will include as an eligible expense the portion of the debt that the family expects to pay during the period that 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 Housing Division may require the family to provide documentation of payments made in the preceding year.

II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head 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)].

II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families where the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses

HUD regulations define medical expenses at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

The most current IRS Publication 502, Medical and Dental Expenses, will be used as a reference to determine the costs that qualify as medical expenses and provides a chart that summarizes the expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families where the head, spouse, or co-head is 62 or older or is a person with disabilities.

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

II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

[24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

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

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].
The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

> 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 Housing Division 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 Housing Division 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 Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].
HUD advises the Housing Division to further define and describe auxiliary apparatus [HCV GB, p. 30].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

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

If the care attendant also provides other services to the family, the Housing Division 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.

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines child care expenses at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek

employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of Child for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [HCV GB, 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

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 Housing Division 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

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 Housing Division.

Furthering Education

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

Being Gainfully Employed

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) that a family member is compensated for.

Earned Income Limit on Child Care Expense Deduction
When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

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

The Housing Division 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].

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 Housing Division 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 Housing Division 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 [HCV GB, p. 26].

Allowable Child Care Activities
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 Housing Division 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 his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

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 Housing Division will use the schedule of child care costs from the local welfare agency that is included in the appendix of this Plan. Families may present, and the Housing Division will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND HOUSING SUBSIDY

III.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 between $0 and $50 that is established by the Housing Division

The Housing Division has authority to suspend and exempt families from minimum rent when a financial hardship exists.

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]
Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]
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 Housing Division's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the Housing Division 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.

Housing Subsidy [24 CFR 982.505(b)]
The Housing Division will pay a monthly housing assistance payment 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.

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]
When the Housing Division subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the Housing Division to pay the reimbursement to the family or directly to the utility provider. the Housing Division will make utility reimbursements directly to the family. The Housing Division will issue all utility reimbursements monthly.

III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview
If the Housing Division establishes a minimum rent greater than zero, the Housing Division must 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 Housing Division 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.

    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. 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. 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 Housing Division. the Housing Division has not established any additional hardship criteria, but has the discretion of evaluating extenuating circumstances of each family on a case by case basis.

Implementation of Hardship Exemption

Determination of Hardship
When a family requests a financial hardship exemption, the Housing Division must suspend the minimum rent requirement beginning the first of the month following the family's request. The Housing Division then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

The Housing Division 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 The Housing Division has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

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 Housing Division will make the determination of hardship within 10 calendar days.

No Financial Hardship

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

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

Temporary Hardship
If the Housing Division determines that a qualifying financial hardship is temporary, the Housing Division 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 Housing Division the amounts suspended. HUD requires the Housing Division to offer a reasonable repayment agreement, on terms and conditions established by the Housing Division. The Housing Division also may determine that circumstances have changed and the hardship is now a long-term hardship.

Long-Term Hardship
If the Housing Division determines that the financial hardship is long-term, the Housing Division 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.

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

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

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]

Overview
The Housing Division's schedule of payment standards is used to calculate the HAP for HCV families. This section covers the application of the Housing Division's payment standards.

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, that is defined as the appropriate number of bedrooms for the family under the Housing Division'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 Housing Division 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 Housing Division must use the appropriate payment standard for the exception area.

The Housing Division is required to pay a monthly 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 Housing Division 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 Housing Division 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 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 Housing Division 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 Housing Division 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 Housing Division will compare the payment standard from step 1 to the payment standard last used to calculate the monthly HAP for the family. The payment standard used by the Housing Division at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. the Housing Division 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 HAP for the

family unless the Housing Division has subsequently increased the payment standard. Then 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 HAP 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 Housing Division is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview
A PHA-established utility allowance schedule is used in determining family share and Housing division subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using Housing division subsidy standards, whichever is the lowest of the two.

Reasonable Accommodation
HCV program regulations require the Housing Division to approve a utility allowance amount higher than shown on the Housing Division's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the Housing Division will approve an allowance for air-conditioning, even if the Housing Division has determined that an allowance for air-conditioning is not needed.

The family must request the higher allowance and provide the Housing Division with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required.

Utility Allowance Revisions
At reexamination, the Housing Division must use the Housing Division current utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

III.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 Housing Division must prorate the assistance provided to a mixed family. The Housing Division 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 Housing Division subsidy for a family is calculated at $500 and two of four family members are ineligible, the Housing Division subsidy would be reduced to $250.

IV. A. PIH Notice 2013-3: Temporary Compliance Assistance

The Housing Division will adopt the following temporary provisions allowed by PIH Notice 2013-3:

- Accept self-certification of assets up to $5,000.

  Assets of $5,000 or less generate minimum income, verification of these assets is costly for the Housing Division, and can lead to increased errors and audit findings.

  The Housing Division will use the admission and recertification application as the only certification by the family. The Housing Division will not require that the family provide any supporting documentation (bank statements, etc.).

  If the net family assets exceed $5,000, the Housing Division will continue to follow the verification policy in chapter 5.

  The Housing Division will continue to report all assets on the HUD form 50058, including assets which do not exceed $5,000.

- Streamlining of annual exams for elderly/disabled families

  If an elderly/disabled family is 100% on fixed income, such as Social Security/SSI, the Housing Division will apply any published cost of living adjustment (COLA) to previously verified amount.

  The Housing Division will still give the family the option to provide information related to any allowanced and deductions for which they qualify.

The Housing Division may choose to conduct the recertification over the telephone or by mail.

- Approval of exception payment standard up to 120% FMR if necessary for reasonable accommodation.

  The Housing Division may choose to approve an exception payment standard up to 120% FMR if necessary for reasonable accommodation without seeking HUD approval. This will allow for reduced administrative time in families leasing accessible units. The Housing Division must document that the unit is rent reasonable and includes accessible features needed by persons with disabilities.

The temporary provisions will be in effect until expiration of PIH Notice 2013-03 on March 31, 2014 or any HUD approved extensions.

IV. B. PIH Notice 2013-04: Guidance on Verification of Excluded Income

The Housing Division will accept self-certification for fully excluded income. Fully excluded income includes food stamps, earned income of minors, live in aide's income, foster care, etc. (See Exhibit 5-2).

The Housing Division is not required to verify fully excluded income as per HUD's verification hierarchy and document the absence of 3rd party verification. The Housing Division is not required to report fully excluded income on the HUD form 50058.

The Housing Division must verify partially excluded income, as stated in Chapter 5.

EXHIBIT 5-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: General Temporary Assistance for Needy Families

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

[1] Text of 45 CFR 260.31 follows.

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Non-recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 5-2: ANNUAL INCOME EXCLUSIONS[1]

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to the PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under

the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 5-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, the PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 5-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92) Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) *Disallowance of increase in annual income*—(1) *Initial twelve month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and phase-in.* Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24- month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 5-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

HCV tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who receive HCV tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

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

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in

information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(d) *Review of the PHA decision.*

HCV participant. A participant in the HCV tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *The PHA's relationships with other welfare agencies*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 6

VERIFICATION PROCEDURES

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

INTRODUCTION

HUD regulations require that the factors of eligibility and TTP/Family Share be verified by the City of Mesquite Housing Division (Housing Division). Housing Division staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain. Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the Housing Division.

The family must supply any information that the Housing Division or HUD determines is necessary to the administration of the program and must consent to Housing Division verification of that information [24 CFR 982.551].

The Housing Division's verification requirements are designed to maintain program integrity. This chapter explains the Housing Division's procedures and standards for verification of income, assets, allowable deductions, family status, and changes in family composition. The Housing Division will obtain proper authorization from the family before requesting information from independent sources. The Housing Division will follow the verification guidance provided by HUD in Notice PIH 2017-12 and any subsequent guidance issued by HUD.

A. HUD's Verification Hierarchy [Notice PIH 2017-12]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the Housing Division to use the most reliable form of verification that is available and to document the reasons when the Housing Division uses a lesser form of verification.

In order of priority, the forms of verification that the Housing Division will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

The Housing Division will allow 5 calendar days for return of third-party verifications and 5 calendar days to obtain other types of verifications before going to the next method. All

verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the Housing Division has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to the Housing Division. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

Any family self-certifications must be submitted as a sworn affidavit (form supplied by the Housing Division) and must be signed in the presence of a Housing Division notary public.

Up-Front Income Verification (UIV)

Up-front income verification (UIV) refers to the Housing Division's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the Housing Division.

- There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the Housing Division has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the Housing Division.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. HUD requires the Housing Division to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

The Housing Division will obtain income and Income Validation Tool (IVT) reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income. Income reports may also be used to meet the regulatory requirement for third party verification, as described above.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

EIV Income Validation Tool (IVT)
THE IVT provides a validation of tenant reported wages, unemployment compensation and Social Security benefits reported in IMS-PIC via form HUD-50058. The IVT displays Discrepancies in previously reported amounts of tenant income by comparing the income reported (50058) with the income/benefit information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH) & the Social Security Administration (SSA) data sharing agreements.

The Housing Division will review the IVT tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or under-reported income, the Housing Division will request written third-party verification of the income in question.

EIV Identity Verification
The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2017-12].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

The Housing Division will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The Housing Division will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the Housing Division determines that discrepancies exist due to Housing Division errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

<u>Upfront Income Verification Using Non-HUD Systems (Optional)</u>
In addition to mandatory use of the EIV system, HUD encourages the Housing Division to utilize other upfront verification sources.

The Housing Division will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system
- State wage system
- State Attorney General System for child support
- Work Number and other agencies reporting wage information for employers

Third-Party Written Verification (Review of Documents) [Notice PIH 2010-19]
Third party verification consists of an original document generated by a third-party source, that may be received directly from a third-party source or provided to the Housing Division by the family

Written third-party verification documents must be original, authentic and dated within 60 days of MHD's request. It may be supplied by the family or received from a third-party source. The Housing Division may photocopy the document to retain in the file and return the original to the family.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment history from the attorney general or other child support collection agency, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The Housing Division is required to obtain, at minimum, two most current and consecutive pay stubs for determining annual income from wages. Partial pay stubs will not be included in averaging the annual income from wages.

The Housing Division may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the Housing Division determines that third-party documents provided by the family are not acceptable, the Housing Division will explain the reason to the family and request additional documentation such as third party verification forms.

Written Third-Party Verification Form
When upfront verification is not available and the family is unable to provide written third-party documents, the Housing Division must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks that may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

The Housing Division may mail, fax, or e-mail third-party written verification form requests directly to the third-party sources.

Third-Party Oral Verification

Oral third-party verification is mandatory when written third-party verification when neither form of written third party is available, or is delayed/have not been returned within 10 calendar days.

In collecting third-party oral verification, Housing Division staff will always initiate the call, using sources identified by UIV or the family and will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification, the Housing Division will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

The Housing Division will not delay the processing of an application beyond 30 days because a third party information provider does not return the verification in a timely manner

When Third-Party Verification is Not Required [Notice PIH 2017-12]
Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

If the family cannot provide original documents, the Housing Division will pay the service charge required to obtain third-party verification, unless it is not cost effective. In this case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is considered a reasonable cost.

Primary Documents
Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets
HUD permits the Housing Division to accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Self-Certification/Self-Declaration
When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification. Self-certification, or "tenant declaration," is used as a last resort when the Housing Division is unable to obtain third-party verification.

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the Housing Division.

The Housing Division may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Housing Division and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a notary public.

B. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.2301, 24 CFR 982.516 AND 982.551]

All Adult family members will be required to sign form HUD-9886 Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the Housing Division 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 IRS and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

In addition, family members will be required to sign specific authorization release forms for information that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the Housing Division or HUD. The family may request an informal review (applicants) or informal hearing (participants) in accordance with Housing Division procedures.

C. VERIFICATION OF INCOME AND ASSETS [24 CFR 982.516]

Any assets and income reported by the family must be verified by using the "Hierarchy of Verification" in this Plan (See page 6-1). The following policies supplement the general verification procedures for the following types of income and assets:

Earned Income

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Business and Self Employment Income

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The Housing Division 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. The Housing Division may require that the family recertify every 90 days.

At any reexamination, the Housing Division 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 Housing Division 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 Housing Division will require the family to provide documentation of income and expenses for this period and use that information to project income.

Periodic payments and payments in lieu of earnings

Social Security/SSI Benefits
To verify the SS/SSI benefits of applicants, the Housing Division will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the Housing Division will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the Housing Division.

To verify the SS/SSI benefits of participants, the Housing Division will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the Housing Division will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the Housing Division will help the participant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the Housing Division.

Alimony or child support

The way the Housing Division will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order.

- Copy of the receipts and/or payment stubs for the previous 12 months prior to the Housing Division 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 and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from the Texas Attorney General Child Support Division that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts
- ***Note:*** Families are not required to undertake independent private enforcement action beyond the Texas Attorney General or the child support division of the applicable state.

Recurring Gifts

The family must furnish a self-certification that contains the following information:

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

Zero Income Status

The Housing Division will check UIV sources, credit reports and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SNAP, SSI, etc., are not being received by families claiming to have zero annual income. Families will be required to report other supportive services, such as food stamps, or contributions from others outside the household.

Interim determinations of zero income families may be performed every 90 days until stable incomes have been established.

<u>Income from excluded sources</u>

The Housing Division must obtain verification for income exclusions only if, without verification, the Housing Division would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the Housing

Division will confirm that Housing Division records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance (only applicable to individuals with disabilities) for a source of income, both the source and the income must be verified.

The Housing Division will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the Housing Division will report the amount to be excluded as indicated on documents provided by the family.

Student Financial Assistance

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education. Excluded amounts are verified only if, without verification, the Housing Division would not be able to determine whether or to what extent the income is to be excluded.

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the Housing Division will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the Housing Division will request written verification of the student's tuition amount.

If the Housing Division is unable to obtain third-party written verification of the requested information, the Housing Division will pursue other forms of verification in accordance with the verification procedures in this Plan.

Parental income of students subject to eligibility restrictions

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with Housing Division policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

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.

If the Housing Division is required to determine the income eligibility of a student's parents, the Housing Division will request an income declaration and certification of income from the appropriate parent(s). The Housing Division 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 Housing Division. The required information must be submitted (postmarked) within 10 business days of the date of the Housing Division's request or within any extended timeframe approved by the Housing Division.

The Housing Division 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, 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.

D. INCOME FROM ASSETS [24 CFR 982.516]

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The Housing Division needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The Housing Division will verify the value of assets disposed of only if:

The Housing Division 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 Housing Division verified this amount. Now the person reports that she has given this $10,000 to her son. The Housing Division has a reasonable estimate of the value of the asset; therefore, re-verification 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 Housing Division will verify the value of this asset.

Net income from rental property

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 Housing Division 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.

Retirement accounts

The Housing Division will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the Housing Division will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the Housing Division will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the Housing Division 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. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME

[24 CFR 982.516]

Child Care Expenses

The amount of the deduction will be verified following the standard verification hierarchy procedures. In addition, the Housing Division must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The Housing Division will verify that the child being cared for (including foster children) is under the age of 13.

Unreimbursed Expense
To be eligible for the child care deduction, the costs must not be reimbursed by another source.

Pursuing an Eligible Activity
The Housing Division 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.

The Housing Division 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**
> Verification that that family is receiving unemployment payments from the Texas Workforce Commission (TWC) is sufficient to document and verify that the family is seeking work.
>
> In the event that the family is not receiving unemployment payments from the TWC, the Housing Division will provide the family with a form where the family member must record job search efforts. The Housing Division will review this information at each subsequent reexamination that this deduction is claimed. The family may be required to provide documentation every 90 days.
>
> **Furthering Education**
> The family must provide a schedule of classes that verifies enrollment in a job training program and/or higher education for each semester/period that the deduction is claimed.
>
> **Gainful Employment**
> The Housing Division will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases where 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 Types of Child Care
The type of care to be provided is determined by the family, but must fall within certain guidelines.

The Housing Division will verify that the type of child care selected by the family is allowable.

The Housing Division 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 Housing Division 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.

The actual costs the family incurs will be compared with the Housing Division's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable, using such resources as the TWC Child Care Costs Annual Market Survey (see Appendix for most recent survey).

If the family presents a justification for costs that exceed typical costs in the area, the Housing Division will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Medical Expenses
The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The Housing Division must verify that the family meets the definition of an elderly or disabled family.

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

> Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
>
> Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
>
> Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

Disability Assistance Expenses for Attendant Care and/or Auxiliary Apparatus

> The disability assistance expenses can be claimed by a family who has a family member with disabilities and the expense permits a family member or members to work and that the expense is not reimbursed by another source. The family head, spouse, or co-head does not have to be disabled or elderly to qualify for this deduction.
>
> The Housing Division 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. This documentation may be provided by the family.

F. VERIFYING NON-FINANCIAL FACTORS [24 CFR 5.617(b)(2)]

Verification of Legal Identity
In order to prevent program abuse, the Housing Division will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

Verification of Legal Identity for Adults

- Certificate of Birth, naturalization papers
- Current, valid Driver's license or Department of Motor Vehicles Identification Card
- U.S. military discharge (DD 214)
- U.S. passport
- For Individuals experiencing homelessness, an identification card issue from the shelter.
- Verification of birth and identity from the Social Security Administration
- Church issued baptismal certificate (if no other verification of legal identity is available)

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

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

Verification of Family Relationships
Applicants and program participants are required to identify the relationship of each household member to the head of household. Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance

Verification of Marriage
Verification of marriage status is a marriage certificate.

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, joint bank accounts, beneficiary designation to one or the other on life or medical insurance policies, joint leases, parents of same child or children in the household).

Verification of divorce status will be a certified copy of the divorce decree, signed by a court officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Other Adult Relationship

Couples must demonstrate they hold themselves to be in stable relationships (e.g. by joint bank accounts, filing joint tax returns, beneficiary designations to one or the other on life or medical insurance policies, joint leases).

Familial Relationships

The following verifications will always be required if applicable:

Verification of relationship:

- Official identification showing names
- Birth Certificates
- Baptismal certificates

Verification of guardianship is:

- Court-ordered assignment
- Affidavit of parent
- Verification from social services agency
- School records

Verification of Permanent Absence of Family Member

If an adult member who was formerly a member of the household is reported permanently absent by the family, the Housing Division will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.
- If no other proof can be provided, the Housing Division will accept a self-certification from the head of household or the spouse, if the head is the absent member.

Foster Children and Foster Adults
Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

Student Status
The Housing Division 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 co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education
This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

In accordance with the verification hierarchy, the Housing Division 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
- The student is at least 24 years old
- The student is a veteran
- The student is married
- The student has at least one dependent child
- The student is a person with disabilities and was receiving assistance prior to November 30, 2005.

If the Housing Division cannot verify at least one of these exemption criteria, the Housing Division 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 Housing Division will then proceed to verify either the student's parents' income eligibility or the student's independence from his/her parents (see below).

Independent Student
The Housing Division will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student*
- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

- 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.

Verification of Change in Family Composition
The Housing Division may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

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

The Housing Division is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The Housing Division may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Housing Division receives a verification document that provides such information, the Housing Division will not place this information in the tenant file. Under no circumstances will the Housing Division 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 www.os.dhhs.gov.

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:

- 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 certain income disallowances and deductions.

For family members claiming disability who receive disability benefits from the SSA, the Housing Division 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 Housing Division 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 Housing Division will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the Housing Division.

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 5.603.

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. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

A family may still request a reasonable accommodation even if they do not meet the HUD definition of disability.

Verification of Citizenship /Eligible Immigrant Status [24 CFR 5.508, 5.5 10, 5.512, 5.514]
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.

Individuals who are neither may elect not to contend their status. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the Housing Division hearing is pending.

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 Housing Division will require citizens and US Nationals to verify the declaration by presentation of birth certificate, US Passport or other appropriate documentation.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the Housing Division must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The Housing Division will follow all USCIS protocols for verification of eligible immigration status.

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

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

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

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

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

The Housing Division will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

For family members added after other members have been verified, the verification will occur at time new members are being added.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial Agency does not supply the documents, the Housing Division must conduct the determination.

Extensions of Time to Provide Documents

The Housing Division will not grant an extension for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*	

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

Verification of Social Security Numbers [24 CFR 5.2 16, Notice PIH 2012-10]

Social security numbers must be provided as a condition of eligibility for all family members, 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. The Housing Division 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

Acceptable documentation includes:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, that contains the name and SSN of the individual

The Housing Division may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

The Housing Division 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 Housing Division within 60 days.

The Housing Division will grant one additional 60-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 Housing Division 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.

> The Housing Division 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 the 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 Housing Division 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 60 calendar days of the child being added to the household. A 60-day extension will be granted if the Housing Division 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 Housing Division is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

The Housing Division will grant one additional 60-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.

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.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Housing Division 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.

Chapter 7

GENERAL LEASING POLICIES

[24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

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

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the Housing Division, or outside of the Housing Division's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payment (HAP) Contract with the Housing Division.

This chapter defines the types of eligible housing, Housing Division policies that pertain to initial inspections, lease requirements, owner disapproval, processing of Requests For Tenancy Approval (RFTA), HAP Contract Execution, utility allowances, determination of rent reasonableness, payments to owners, adjustments to payment standards, and rent adjustments.

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

The RFTA (HUD 52517 form) and a copy of the proposed lease must be submitted by the family prior to the expiration of the term of the voucher or expiration of any extensions. The family must submit the RFTA in the form and manner required by the Housing Division. The Housing Division will review the proposed lease and the RFTA documents to determine whether or not the Housing Division can approve the assisted tenancy in the selected unit.

If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the Housing Division will notify the family and the owner of the deficiencies. It is the sole responsibility of the owner and the tenant to submit the required documentation timely and without omissions or errors. Failure to provide this documentation within the specified time and without errors will result in the nullification of the RFTA approval process. Missing information and/or missing documents will be accepted as original hard copies, fax, email and in-person. The Housing Division will accept missing information over the phone (i.e. year built, security deposit amount..)

The following conditions must be met prior to acceptance of the RFTA:

- The HUD prescribed Tenancy Addendum (HUD 52641-A form) must be included as attachment to lease.
- The RFTA must be signed by both the owner and voucher holder.

- The Housing Division will not permit the family to submit more than one RFTA at a time.
- The unit is an eligible type of housing
- The unit meets HUD's Housing Quality Standards (HQS) and any additional criteria as identified in this Plan.
- The security deposit is approvable in accordance with any limitations in this plan.
- The proposed lease complies with HUD and Housing Division regulations
- The owner is approvable, and there are no conflicts of interest

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family's monthly adjusted income.

Additional Requirements of New Owners/Landlords when submitting RFTA

All new Owners must provide the following documentation:

- Tax identification letter or Social Security card
- Direct deposit agreement (required for all new HAP contracts after January 2013)
- Current government issued photo ID
- IRS W-9 form with original signature
- Copy of warranty deed
- Copy of management agreement (for property management companies)
- Valid mailing address. If mailing address is PO BOX, a physical address is required to verify owner does not reside on assisted property
- A valid telephone number and emergency contact
- A valid email address, if available
- Owner must complete an orientation provided by the Housing Division

Disapproval of RFTA

If the Housing Division determines that the request cannot be approved for any reason, the owner and the family will be notified. The Housing Division will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given 14 calendar days to submit an approvable RFTA from the date of disapproval.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the Housing Division 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.

When, for any reason, an RFTA is not approved, the Housing Division will furnish another RFTA form to the family so that the family can continue to search for eligible housing.

The family may request an extension of the voucher if the RFTA submitted is not approved by the Housing Division due to action by the owner.

Owner disapproval and restriction

The owner does not have an automatic right to participate in the HCV program. The Housing Division maintains a listing of ineligible owners.

The Housing Division will disapprove the owner for the following reasons:

- HUD or other directly related agency has informed the Housing Division that the owner has been disbarred, suspended, or subject to a limited denial of participation.
- HUD has informed the Housing Division that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the Housing Division that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.
- 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 act in connection with any federal housing program.
- The owner has engaged in drug-related criminal activity or any violent criminal activity.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
    - Threatens the right to peaceful enjoyment of the premises by other residents;
    - Threatens the health or safety of other residents, of owner employees, or other persons engaged in management of the housing; or
    - Is drug-related criminal activity or violent criminal activity;
- The owner has not paid State or local real estate taxes, fines or assessments.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse, the owner will be banned from further participation in the HCV program and the Housing Division will terminate all other HAP contracts with the owner.

If the owner is guilty of frequent or serious contract violations, the Housing Division will restrict the owner from future participation in the program for a period of five years from termination of the HAP contract. The Housing Division may also terminate all other HAP contracts with the owner.

Before imposing any penalty against an owner the Housing Division will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

C. ELIGIBLE TYPES OF HOUSING [24 CFR 982.352]

The Housing Division will approve any of the following types of housing in the voucher program:

> All single-family, multi-family (apartments), duplexes, town homes, four-plex dwelling units, including manufactured homes where the tenant leases the mobile home and the pad.
>
> The Housing Division will permit the use of Shared Housing or Group Homes in its program only if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. [24 CFR 982.601]

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. In cases where the owner and tenant bear the same last name, the Housing Division may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

A family may lease in and have an interest in a cooperative housing development.

The Housing Division does not own any units.

Ineligible Units [24 CFR 982.352(a)]
The Housing Division 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.

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any other forms of other housing subsidy, for the same unit or for a different unit in order to avoid duplication of subsidy.

D. LEASE REVIEW [24 CFR 982.308]

The Housing Division will not review the lease, particularly noting the approvability of optional charges and compliance with regulations and state and local law. The tenant also must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

The family and owner must submit a standard form of lease used in the locality by the owner and that is used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

- The names of the owner and tenant,
- The address of the unit rented (including apartment number, if any),
- The amount of the monthly rent to owner,
- The utilities and appliances to be supplied by the owner,
- The utilities and appliances to be supplied by the family,
- Effective date of lease with minimum one year initial term, and
- The HUD prescribed tenancy addendum must be attached to lease or included in the lease "word-for-word" before the lease is executed

For units constructed prior to 1978, owners must either

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

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

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 Housing Division to approve a shorter initial lease term if certain conditions are met.

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. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

It is the family's responsibility to review the terms of the lease prior to execution of the lease with the owner.

E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

Owners are not required to collect a security deposit.

Owners are encouraged to collect the total amount of the security deposit amounts at lease execution and are discouraged from entering an agreement to pay the security deposit over the term of the lease. If an owner and family enter an agreement to pay the security deposit over the term of the lease, the Housing Division will not consider it a serious lease violation if the family fails to comply with the agreement and will not take any enforcement action against the family if the family is otherwise in good standing. The owner cannot take any HAP amount paid on behalf of the family and apply it to the security deposit owed by the family.

F. SEPARATE NON LEASE AGREEMENTS BETWEEN OWNERS AND TENANTS

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the Housing Division.

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

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the Housing Division. If agreements are entered into at a later date, they must be approved by the Housing Division and attached to the lease.

The Housing Division will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

G. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS).

H. RENT REASONABLENESS [24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The Housing Division will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting the monthly HAP from the Housing Division, the owner certifies that the "rent to owner" is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the Housing Division with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the "rent to owner" may not be more than the most current reasonable rent as determined by the Housing Division.

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

In accordance with HUD requirements, the Housing Division will furnish prospective owners with the family's current and prior address as shown in the Housing Division's records and, if known to the Housing Division, the name and address of the owner at the family's current and prior address.

The Housing Division may not disclose to the owner any confidential information provided in response to a Housing Division request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

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

A statement of the Housing Division's policy on release of information to prospective owners will be included in the briefing packet that is provided to the family.

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the total family share prior to the effective date of the HAP contract at admission or after RFTA submission if moving with

continued assistance, the information will be verified and the total family share will be recalculated. If the family does not report any change, the Housing Division need not obtain new verifications before signing the HAP contract, even if verifications are more than 60 days old.

In certain cases, the reported change may result in family ineligibility for the program and withdrawal of voucher or denial of the RFTA due to rent burden.

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

The HAP contract is a written agreement between the Housing Division and the owner of the dwelling unit occupied by a HCV assisted family. Under the HAP contract, the Housing Division agrees to make HAPs to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

The family and the owner will execute the lease agreement, and the owner and Housing Division will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The Housing Division will retain an original copy of all signed documents.

The Housing Division makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the Housing Division will pay HAPs 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 Housing Division may not pay any HAP to the owner.

L. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract and lease.

The Housing Division will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the Employee Identification Number or Social Security number of the new owner. New owners will also have to provide the Housing Division with the documents listed on page 7-2. The Housing Division may deny approval of assignment of the contract(s), for any of the reasons listed in this chapter.

If the new owner does not want an assignment of the contract, the Housing Division will terminate the HAP contract with the old owner, since they are no longer the owner. The new

owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

M. 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 Housing Division a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

The Housing Division approval of tenancy and execution of a new HAP contract are not always required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the Housing Division has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. 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 RFTA along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the Housing Division of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect in writing by completing a rental increase request [24 CFR 982.308(g)(4)]. The Housing Division will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness. If the requested rent is not reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, the Housing Division will determine whether the requested increase is reasonable within 14 calendar days of receiving the request from the owner. The owner will be notified of the determination.

The Housing Division will not pay any month-to-month fees to the owner and family must execute a lease in order to avoid month-to-month fees. In these cases, the Housing Division will approve a lease that is no less than three months and more than twelve months. If the owner wishes to increase the rent to cover the additional month-to-month expenses, they must notify the Housing Division of any changes at least 60 days prior to change. The Housing Division will then determine if the rent is reasonable and the owner will be notified of the determination.

N. RENT TO OWNER IN THE HCV PROGRAM

The rent to the owner is limited by rent reasonableness. The Housing Division 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.

O. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP contract is executed, the Housing Division will initiate payments to the owner. Paper checks for the initial prorated or first full month HAP may be mailed or picked up by the owner at the Housing Division if direct deposit has not started. For all other payments, the Housing Division will pay the owner by direct deposit.

Checks that are not received within 15 days of issuance will not be replaced until a written request, in the form required by the City's Accounting Division, has been received from the payee. It is the responsibility of the owner to notify the City's banking institution if banking information has changed prior to the payment being disbursed. If owner fails to notify the City's banking institution of banking information change, the owner will be responsible for recovering the payment from the banking institution or, in cases of new ownership, from the previous owner.

Excess Payments

The total of rent paid by the tenant plus Housing Division HAP to the owner may not be more than the total rent due to the owner. The owner must immediately return any excess assistance payment to the Housing Division or, if applicable, to the tenant. Owners who do not return excess payments will be subject to penalties.

Late Payments to Owners

It is a local business practice in the Housing Division's jurisdiction 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, not withstanding any grace period that is typically 5 days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the Housing Division must make HAPs to the owner promptly and in accordance with the HAP contract.

Owners who have written late fee provisions stated in the lease with tenant, may request the Housing Division to pay same late fee, if the Housing Division does not issue check to an owner

by the 5th day of the month (or longer according to grace period in lease). (Note: Housing Division late fees will not be applicable on the first/initial assistance payment for a family moving in or transferring to another unit or if family has given notice to vacate and assistance payment was withheld due to pending move.)

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

P. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The Housing Division will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises. The Housing Division will not approve a lease until the Housing Division determines that the initial rent to owner is reasonable.

During the term of the HAP contract, the "rent to owner" may not be more than the most current reasonable rent as determined by the Housing Division. The Housing Division must determine that the rent is reasonable before any increases in the rent are approved.

The Housing Division may re-determine rent reasonableness if directed by HUD and based on a need identified by the Housing Division's auditing system.

The owner will be advised that by accepting each monthly HAP, 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 Housing Division information on rents charged by the owner for other units in the premises or elsewhere. The Housing Division will only request information on the owner's units elsewhere if the Housing Division has cause to demonstrate that the owner has a tendency to charge higher rents to program participants as compared to market renter or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, realtors, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are neighborhoods within the Housing Division's jurisdiction or adjacent cities. Subject units within a defined housing market area will be compared to similar units within the same area. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

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(e.g., single family, duplex, garden, low-rise, high-rise)
- Maintenance
- Services and utilities included in the rent.

Rent Reasonableness Methodology

The Housing Division utilizes an electronic rent reasonableness database system that includes and defines the HUD factors listed above.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The Housing Division will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the Housing Division may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas). Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference - not it's construction costs (e.g. it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The Housing Division will notify the owner of the rent the Housing Division can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The Housing Division will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the Housing Division's request for information or the owner's request to submit information.

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

The Housing Division schedule of payment standards is included in the Appendix.

The Payment Standard is used to calculate the HAP for a family in accordance with HUD regulations.

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 Voucher Payment Standard amount is set by the Housing Division between 90 percent and 110 percent of the HUD published SAFMR. This is considered the basic range. The Housing Division reviews the appropriateness of the Payment Standard annually when the SAFMR is published. In determining whether a change is needed, the Housing Division will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new SAFMR, unless an exception payment standard has been approved by HUD.

The Housing Division will establish a payment standard for every SAFMR area within its jurisdiction and will establish payment standard amounts for each "unit size." If the Housing Division has established an exception payment standard for a designated part of an SAFMR area and a family's unit is located in the exception area, the Housing Division must use the appropriate payment standard for the exception area.

The Housing Division may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

The Housing Division must seek HUD approval to establish payment standards lower or higher than the basic range.

R. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

When the Housing Division 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.

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 HAP 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

Increases in Payment standards are effective for all new contracts 30 days after the FMR is published and 90 days after the FMR is published for annual recertifications. If FMR is

published in October, any changes in the Payment standard for new contracts would become effective the following month (November 1) but any changes in recertifications, would not be effective until January 1 in order to avoid having to retroactively apply the payment standard to re-certifications completed but not effective. This applies only if the payment standard is within the basic range of the FMR.

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard 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 Housing Division 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 Housing Division 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 Housing Division will compare the payment standard from step 1 to the payment standard last used to calculate the monthly HAP for the family. The payment standard used by the Housing Division at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The Housing Division 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 HAP for the family unless the Housing Division has subsequently increased the payment standard. In that case, the payment standard will be determined in accordance with procedures for increases in payment standards described in step 1 and 2.

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 Housing Division is allowed to establish a higher payment standard for the family within the basic range.

Chapter 8

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

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

The City of Mesquite Housing Division (Housing Division) will inspect each unit under contract at least annually. The Housing Division will not charge a fee for failed reinspection. This chapter describes the Housing Division's procedures for performing HQS and other types of inspections, and Housing Division standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Plan refers to the combination of both HUD and Housing Division requirements.

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

The Housing Division has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations. Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The Housing Division will not promote any additional acceptability criteria that are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the inspector will notify the tenant or owner, whoever is responsible for the utilities according to the Request for Tenancy Approval (RFTA), to have the utilities turned on.

Stove and refrigerator must be in place prior to the inspection. If the stove and refrigerator are not in place at the time of inspection, the inspector will notify the tenant or owner (whomever is responsible for the appliances according to the RFTA) to have the appliances placed. The Housing Division may accept a tenant certification stating that tenant provided appliances are in place prior to HAP contract execution. The tenant certification will only be accepted if placing tenant-provided appliances in the new unit would cause an undue hardship to the family and/or an HQS breach in the current assisted unit. The Housing Division may also choose to conduct a second inspection to verify that appliances are in place and functional.

The Housing Division conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

1. *Initial Inspections*. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection on or before the effective date of the HAP Contract.
2. *Annual/Biennial Inspections*. HUD requires the Housing Division to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
3. *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.
4. *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 HQS.

B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)] *FR Notice 01/18/2017*

Timely Initial HQS Inspection

The Housing Division will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination. The Housing Division has a goal to perform all Initial Inspections within 5 business days of the inspector receiving the inspection form or from date noted on inspection that unit is ready for inspection, whichever is later.

The same 5 day clock will be suspended during any period when the unit is not available for inspection.

For file audit purposes, the Housing Division will note on each tenant's unit inspection form the date that the unit first became available for inspection.

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Administrative Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial HQS inspection, the owner will be advised to notify the Housing Division once repairs are completed and request a re-inspection.

It is the owner's responsibility to notify the Housing Division that the repairs are completed. The Housing Division will re-inspect the unit within 3 business days of the date the owner notifies the Housing Division that the required corrections have been made.

On an initial inspection the owner will be given up to 30 calendar days to correct the items noted as Failed, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to two inspections for repair work to be completed.

If the time-period for correcting the deficiencies (or any Housing Division approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the Housing Division will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The Housing Division 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 after the owner has made repairs, if they are unable to locate another suitable unit.

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

The Housing Division conducts an inspection in accordance with HQS at least biennially . Special inspections may be scheduled between anniversary dates. Special inspections may be requested by the family, the owner, HUD, a third party and the Housing Division.

HQS deficiencies that cause a unit to fail must be corrected by the landlord unless the failure is deemed a tenant responsibility.

The family must allow the Housing Division to inspect the unit at reasonable times with reasonable notice. The family 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 24 hours. Inspections may be scheduled between 8:30 a.m. and 4:30 p.m. Inspections will be conducted on business days only. In the case of a life-threatening emergency, the Housing Division will give as much notice as possible, given the nature of the emergency. [24 CFR 982.551(d)]

If an adult family member or representative cannot be present on the scheduled date, the family should request that the Housing Division reschedule the inspection. The Housing Division and family will agree on a new inspection date that should take place within 5 business days of the originally-scheduled date. The Housing Division may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the Housing Division will automatically schedule a second inspection. If the family misses two scheduled inspections, without Housing Division approval, the Housing Division 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.

The family will be notified in writing when there is a family caused breach of HQS and given a time frame to correct the deficiency.

Time Standards for Repairs

Emergency items that endanger the family's health or safety must be corrected by the owner within 24 hours of notification.

For non-emergency items, repairs must be made within 30 days.

For major repairs, the Administrator of Housing and/or a designee may approve an extension beyond 30 days. Extensions may be granted in cases where the Housing Division 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 30 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.

Rent Increases

Rent to owner increases may not be approved if the unit is in abatement.

D. SPECIAL INSPECTIONS [24 CFR 982.405(c)]

The Housing Division will conduct a special inspection if the owner, family or another source reports HQS violations in the unit. If a participant or government official reports a life-threatening condition that the owner would be required to repair within 24 hours, the Housing Division must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 10 days of notification.

The Housing Division will inspect only the items that were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs. If the inspector observes any other program violations, the inspector is required to document those program violations and report them to the Administrator of Housing for appropriate action.

The Housing Division may require that the family attend a "Healthy Homes" class if the family is cited for housekeeping issues.

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

Quality Control inspections will be performed by the Administrator of Housing or a designated person on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS
[24 CFR 982.401 (al)]

The Housing Division adheres to the acceptability criteria in the program regulations, local codes and additions described below and in Exhibits 8-1 and 8-2 (pg. 8-10 through 8-12).

Local Codes [24 CFR 982.401(a)(4l]

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

Walls:
In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged on interior walls, it must be repaired or replaced. Severe cracking or exterior perimeter walls must be repaired or replaced (due to water, air or vermin infiltration).

Windows:
Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced. Windows must be weather-stripped as needed to ensure a weather-tight seal. Window screens must be in good condition (applies only if screens are present).

Floors:
All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced. All floors must be in a finished state. Raw wood or unsealed concrete is not permitted. All floors should have some type of baseboard, trim, or sealing to the wall.

Sinks/Commodes:
All sinks and commode water lines must have shut off valves, unless faucets are wall mounted. All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

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

Window locks must be permanently attached to window sash or surrounding opening. Thumb locks are not considered permanent locking devises unless they are attached to the sash with the use of chain or wire.

Electric:

All ungrounded 3 prong electrical outlets must either be grounded, GFCI protected or switched back to 2 prong outlets.

Thermal Environment:
The dwelling unit must have acceptable climate-control systems in place and be capable of maintaining a thermal environment healthy for the human body. The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1. Air conditioning equipment included in the rent by the owner must be capable of maintaining a maximum inside temperature of 78 degrees Fahrenheit with an outside temperature of 98 degrees Fahrenheit.

Modifications:
Modifications or adaptations to a unit that provide access for a person with disability must meet all applicable HQS requirements and building codes, in addition to conform to the design, construction, or alteration of facilities contained in the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities (ADA) Accessibility Guidelines. Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the Housing Division for review prior to execution.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit, if agreed to by the tenant and landlord. The Housing Division will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

Multi-family units/complexes
All owners of apartment complexes must be licensed annually through the City of Mesquite Building Inspection Division and be in compliance with all provisions and requirements according to City Ordinance No. 1966.

Single-family/duplexes
Prior to an initial HCV inspection being performed for occupancy on a single family or duplex property within the Mesquite city limits, the property owner must secure a Rental Certificate of Occupancy (RCO), also known as a "Green Tag", from the City of Mesquite Building Inspection Division. HCV inspections will not be scheduled until the RCO "Green Tag" is issued.

G. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the Housing Division to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of Housing Division notification. The Housing Division defines "Life threatening condition" as any condition that jeopardizes the security of the unit or occupants, for example:

- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leak

- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled Any electrical problem or condition that could result in shock or fire
- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
- A light fixture is hanging by its wires
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit
- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
- Exposed bare wires or electrical connections
- Any condition that results in openings in electrical panels or electrical control device enclosures
- Water leaking or ponding near any electrical device
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Any components that affect the function of the fire escape are missing or damaged
- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency
- The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in afire or other emergency
- Absence of a functioning toilet in the unit
- Inoperable or missing smoke detectors
- Missing or inoperable carbon monoxide detector(where required)
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
- The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
- A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
- A fuel-fired space heater is not properly vented or lacks available combustion air
- A non-vented space heater is present

- Safety devices on a fuel-fired space heater are missing or damaged
- The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit
- Refrigerator not working or failing to maintain a freezer temperature of 0 Fahrenheit or main compartment of 40 Fahrenheit.
- Stove/range or microwave failing to maintain a temperature to properly cook or reheat food.

If an owner fails to correct life-threatening conditions as required by the Housing Division, the Housing Division will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family caused life-threatening condition as required by the Housing Division, the Housing Division will enforce the family obligations. See 8.H.

The Housing Division may give a short extension (not more than 24 additional hours) whenever the responsible party cannot be notified or it is impossible to correct the repair within the 24-hour period. In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the Housing Division.

If the emergency repair item(s) are not corrected in the time period required by the Housing Division, and the owner is responsible, the HAP will be abated and the HAP contract may be terminated.

If the emergency repair item(s) are not corrected in the time period required by the Housing Division and it is an HQS breach that is a family obligation, the Housing Division may terminate the assistance to the family.

Smoke Detectors

The owner will be required to repair an inoperable smoke detector unless the Housing Division determines that the family has intentionally disabled it (by removing batteries, not replacing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

The Housing Division will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

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

[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet HQS, and the owner is responsible for completing the necessary repair(s) and not made the repairs in the time period specified by the Housing Division, the assistance payment to the owner will be abated.

Abatement
A Notice of Abatement will be sent to the owner, along with the notice to correct HQS deficiencies. The Housing Division will make all HAP abatements effective the first day following the expiration of the Housing Division specified correction period (including any extension).

The Housing Division will inspect abated units within three business days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

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

Termination of Contract
If the owner is responsible for repairs, and fails to correct all the deficiencies by the Housing Division's specified date, or approved extensions thereof, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies the Housing Division before the termination date of the HAP contract, the Housing Division 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 Housing Division is 30 days.

Only one HQS inspection will be conducted after the termination notice is issued.

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

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear
  - "Normal wear and tear" is defined as “deterioration that occurs without negligence, carelessness or abuse of the premises, equipment, furnishings or appliances by the tenant, a member of the household or other persons on the premises with his or her consent," and that could not be charged against the tenant's security deposit under state law or court practice
  - In cases where the landlord and the tenant disagree about damages assessed, the Housing Division will only act upon a family violation obligation if the landlord can provide proof of unit condition at move in (such as photos or executed move in checklist by the tenant) or if the landlord has obtained legal judgment for damages from a court of law.

The owner is responsible for all other HQS violations.

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

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

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

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

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the Housing Division will require the family make any repair(s) or corrections within 24 hours (emergency) or 30 calendar days (non-emergency). If the repair(s) or correction(s) are not made in this time period, the Housing Division may terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the Administrator of Housing and his/her designee. The owner's rent will not be abated for items that are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

K. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If the Housing Division is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the Housing Division must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit and the assisted family. 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 risk assessment report from the Housing Division, 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]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS.

L. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the Housing Division determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the Housing Division must issue the family a new voucher, and the family and the Housing Division must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the Housing Division must terminate the HAP contract in accordance with its terms.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

24 CFR 982.401, Housing Quality Standards (HQS)
Housing Choice Voucher Guidebook, Chapter 10.
HUD Housing Inspection Manual for Section 8 Housing
HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required, but if provided, must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint
Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed, provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by The PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.
See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access
Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

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

Sanitary Condition
The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors
Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety
The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for that the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form
- HUD-52580-A (9/00)

Provided the minimum HQS have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

(8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

REEXAMINATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, the City of Mesquite Housing Division (Housing Division) will reexamine the income and household composition of all families 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 chapter discusses the schedule for annual and interim reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Annual reexamination and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases.

A. ANNUAL REEXAMINATION [24 CFR 982.516]

The Housing Division 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.

STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

HUD permits the Housing Division 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 rate of interest. The Housing Division may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the Housing Division 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.

Housing Division Policy

The Housing Division will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The Housing Division will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the Housing Division will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the Housing Division will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Recertification Notice to the Family

The Housing Division will maintain an annual reexamination tracking system and the household will be notified by mail of their upcoming annual reexamination at least 90 days in advance of the effective reexamination date. The Housing Division 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, the Housing Division will perform a new annual reexamination.

The Housing Division also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

If requested as an accommodation by a person with a disability, the Housing Division will provide the notice in an accessible format. The Housing Division will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Moves Between Reexamination

When families move to another dwelling unit, an annual recertification will be performed (unless a recertification has occurred in the last 90 days). The anniversary date will change to the effective date of the new HAP contract. The lease and the HAP contract should have the same effective date.

The Housing Division will conduct a criminal background check of household members over the age of 18 prior to issuing a moving packet. If the family is eligible to move, has not violated their Program Obligations or Lease Agreement, and does not owe the Housing Division money, the family will be offered a new voucher to search for another unit

Income limits are not used as a test for continued eligibility at recertification

Completion of Annual Recertification

The Housing Division will have all reexamination for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

During the annual reexamination process, Housing Division 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 or is considered a vulnerable youth 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), Housing Division will process a reexamination in accordance with the policies in this chapter.

Persons with Disabilities
Persons with disabilities who are unable to come to the Housing Division's office will be granted an accommodation by conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information [24 CFR 982.516(f)]
Families are required to participate in an annual reexamination meeting.

Notifications of the annual reexamination meeting will be sent by first-class mail and will contain the date, time and location of the meeting. If the family is unable to attend the scheduled interview, the family should contact the Housing Division in advance of the interview to schedule a new appointment.
If a family does not attend the scheduled annual reexamination meeting, the Housing Division will send a second notification with a new appointment time. If a family fails to attend two scheduled interviews without Housing Division approval, or if the notice is returned by the post office with no forwarding address, a notice of termination will be sent to the family.

An advocate, interpreter, or other assistant may assist the family in the interview.

All adult household members are required to attend the annual recertification meeting. If the head of household is not in attendance, the family will be rescheduled. In cases where there is an adult member of the family that is temporarily absent and cannot attend the meeting (for example a college student who lives of town), the Housing Division may obtain information from the absent adult family member using fax, email, or mail.

If participation in a interview poses a hardship because of a family member's disability, the family should contact the Housing Division to request a reasonable accommodation.

Conducting annual reexaminations
As part of the annual reexamination process, families are required to provide updated information to the Housing Division regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Families will be asked to bring all required documentation to the reexamination meeting. The required information will include a Housing Division-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 calendar days of the meeting. 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.

Verification of Information

The Housing Division will follow the verification procedures and guidelines described in Chapter 6. Verifications for reexamination must be less than 60 days old (exception may be on benefit incomes, such as social security, VA or others, that family's income history in files shows such income to be stable with only the usual cost of living increases) .

Tenant Rent Increases

Prior to the scheduled effective date of the annual recertification, the family is provided a minimum thirty day notice of rental increase.

If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty day notice, only if the Housing Division delayed processing of the recertification.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the recertification processing, the thirty day notice will not be applicable or there will be retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the effective recertification date.

If the family causes a delay so that the processing of the recertification is not complete by the effective recertification date, rent change will be effective on the first day of the month following completion of the recertification processing by the Housing Division.

B. REPORTING INTERIM CHANGES [24 e FR 982.516]

Program participants must report all changes in household composition to the Housing Division within 30 business days. This includes additions due to birth, adoption and court-awarded custody.

When any new family member is added, the Housing Division must make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].

Families must request Housing Division 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 14 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Housing Division prior to the individual moving into the unit.

If the Housing Division determines an individual meets the Housing Division's eligibility criteria and documentation requirements, the Housing Division will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

The Housing Division will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the Housing Division determines that an individual does not meet Housing Division eligibility criteria or documentation requirements, the Housing Division 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.

The Housing Division will make its determination within 14 calendar days of receiving all information required to verify the individual's eligibility.

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

If a household member ceases to reside in the unit, the family must inform the Housing Division within 30 business 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 the Housing Division within 30 calendar days.

Interim Reexamination Policy: Changes affecting Income or expenses

Families are required to report all changes (increase or decreases) in income within 10 calendar days of the date the change takes effect.

The Housing Division must process the request if the family reports a change that will result in a reduced family income.

MHD will process all income increases from all income sources by performing an interim reexamination. The family will be given a full 30 days' notice from the 1st day of the upcoming month prior to the increase taking effect.

For families receiving the Earned Income Disallowance (EID), the Housing Division will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.

Housing Division Errors

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

C. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification. An interim reexamination may be scheduled for families with zero or unstable income every 90 days. Any changes reported by participants other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly-scheduled annual reexamination.

The Housing Division may conduct the interim recertification by mail as a reasonable accommodation when requested.

D. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]

The Housing Division will not reduce the family share of rent for families whose welfare assistance is reduced by the welfare agency specifically because of:

- fraud in connection with the welfare program; or
- noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the Housing Division will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or
- A family member has not complied with other welfare agency requirements.

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from

other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Housing Division will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with the Housing Division calculation.

E. NOTIFICATION OF RESULTS OF REEXAMINATION [HUD Notice PIH 98-6]

The HUD Form 50058 will be completed and transmitted as required by HUD.

The Amendment to the Contract and Lease Agreement may be mailed, faxed, emailed or delivered to the owner and the tenant.

Signatures are required by the Housing Division. If the family disagrees with the rent adjustment, they may request an informal hearing.

F. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)]

Standard for Timely Reporting of Changes

The Housing Division requires that families report interim changes to the Housing Division within 10 calendar days of when the change occurs. Any information, document(s) or signature(s) needed from the family that is needed to verify the change must be provided within same 10 calendar days of the change.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Effective Date of Interim Changes

The Housing Division will notify the family and the owner of any change in the HAP to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least 30 days' notice. 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

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

G. 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 Housing Division'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.

When the Housing Division changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

If the Housing Division's payment standard amount changes during the term of the HAP contract, the date that the new standard is applied depends on whether the standard has increased or decreased:

- If the payment standard amount has *increased,* 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 Housing Division's subsidy standards, 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 Housing Division's utility allowance schedule.

When there are changes in the utility arrangement with the owner, the Housing Division must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the Housing Division must use the current utility allowance schedule [24 CFR 982.517(d)(2)].

H. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The Housing Division 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:

- 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 Housing Division'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)] (see Chapter 16).

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.

I. DISCREPANCIES

During an annual or interim reexamination, the Housing Division may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information.

In addition, the Housing Division may discover errors made by the Housing Division. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in chapter 12.

If any participant deliberately misrepresents the information that eligibility or tenant rent is established based on, the Housing Division may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

J. CRIMINAL BACKGROUND CHECKS

The Housing Division shall conduct a criminal background check for every member of the participant's family age 18 and over at each annual recertification. The Housing Division shall screen to ensure that no member of the family has engaged in criminal activity as described in Chapter 2.

Chapter 10

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982 .314, 982.353, 982.355(a),5.2007, PIH Notice 2012-42]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the City of Mesquite Housing Division's jurisdiction, or to a unit outside of the Housing Division's jurisdiction under portability procedures.

The regulations also allow the Housing Division the discretion to develop policies that define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of, the Housing Division's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

- The lease for the old unit has terminated because the Housing Division has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family for other than repeated or serious lease violations (unless assistance to the family will be terminated).
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).
- A family may request permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the Housing Division will request documentation in accordance with section 11.E of this plan.
  Housing Division reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the Housing Division will document the waiver in the family's file.
  The Housing Division has adopted an emergency transfer plan, which is included as Exhibit 12-1 to this plan.
- .
- For a family participating in the Project based program, the family may elect to move after the first year of occupancy, provided that the Housing Division has sufficient funding.

B. RESTRICTIONS ON MOVES [24 CFR 982.3 14, 982 .552(a), PIH NOTICE 2016-09]

The Housing Division will deny permission to move if there is insufficient funding for continued assistance and if (a) the move is initiated by the family, not the owner or the Housing Division; (b) the Housing Division can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the Housing Division can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

The Housing Division will create a list of families whose moves have been denied due to insufficient funding. The Housing Division will keep the family's request for portability open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The Housing Division will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list; the Housing Division will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

The Housing Division will deny permission to move if it has grounds for denying or terminating the family's assistance, for example:

- The family has violated a family obligation.
- The family owes the Housing Division money.
- The family is under eviction or notice to vacate proceedings for serious or repeated lease violations.

Restrictions on Elective Moves [24 CFR 982.314(c)]
The Housing Division will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the Housing Division's jurisdiction or outside it under portability.

The Housing Division 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 Housing Division's jurisdiction.

The Housing Division 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, and 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 that a family cannot control.

In addition, the Housing Division will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Reexamination of Family Income and Composition
For families approved to move to a new unit within the Housing Division's jurisdiction, the Housing Division will perform a new annual reexamination if the last annual reexamination was not performed in the past 90 days.

If a participant family is approved to move out of its jurisdiction under portability, the Housing Division 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 Housing Division will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Issuance of Voucher
The family will be given the opportunity during the annual recertification initial contact to notify the Housing Division if the family wishes to move. Once notified by the family in writing, the Housing Division will determine if the family is eligible and the move can be approved. If the move is approved, the family must attend a voucher issuance briefing in order to receive the voucher and begin the search for a new unit.

Families who are participating in the Project Based program may move with continued tenant based assistance after the first year of the assisted lease. If voucher is not immediately available, the Housing Division must give the family priority to receive the next available voucher.

Notice Requirements
Briefing sessions emphasize the family's responsibility to give the owner and the Housing Division proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the Housing Division simultaneously. The notice to vacate provided to the Housing Division must show that the owner has received a copy.

The family should consider the search time needed to locate a new unit. The Housing Division will not pay any month-to-month fees because the family has failed to execute a new lease and/or move when indicated on notice. In order to avoid paying month-to-month fees, the Housing Division will accept leases no less than 3 months and no more than 12 months.

Housing Assistance Payments [24 CFR 982.311(d)]
When a family moves out of an assisted unit, the Housing Division may not make any HAP to the owner for any month **after** the month the family moves out. The owner may keep the HAP for the month when the family moves out of the unit.

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP contract on behalf of the family for the new 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 HAP (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.

The Housing Division will stop the HAP on the date indicated on the move out notice. For program purposes, the move out date is the last day of a month because each housing assistance payment represents a full month payment. The family must assume full responsibility for all housing costs accrued after the move out date.

If the family has vacated the unit and the landlord has not notified the Housing Division, the Housing Division will make every effort to recover the overpayment from the landlord.

D. PORTABILITY [24 CFR 982.353]

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 Housing Agency administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one Housing Agency and uses it to lease a unit in the jurisdiction of another Housing Agency is known as portability. The first Housing Agency is called the **initial Housing Agency.** The second is called the **receiving Housing Agency.**

The receiving Housing Agency has the option of administering the family's voucher for the initial Housing Agency or absorbing the family into its own program. Under the first option, the receiving Housing Agency bills the initial Housing Agency for the family's HAP and the fees for administering the family's voucher. Under the second option, the receiving Housing Agency pays for the family's assistance out of its own program funds, and the initial Housing Agency has no further relationship with the family.

The same Housing Agency commonly acts as the initial Housing Agency for some families and as the receiving Housing Agency for others. Each role involves different responsibilities. The Housing Division will follow the rules and policies in Section E of this chapter when it is acting as the initial Housing Agency for a family. It will follow the rules and policies in Section F of this chapter when it is acting as the receiving Housing Agency for a family.

Restrictions on Portability

The portability feature of a family's voucher may be used by applicants or participants, subject to any restriction on moves stated above and below. There is no requirement for families to initially lease up (new admission) in the Housing Division's jurisdiction.

Families who are participating in the Project Based program do not have the option of using the portability feature if the family terminates the assisted lease before the end of one year.

E. INITIAL HOUSING AGENCY ROLE FOR OUTGOING PORTABILITY

Applicants

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 where the family wishes to move [Notice 2011-3].

The initial Housing Agency is responsible for determining whether the family is income eligible in the area where the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the Housing Division must inform the family that it may not move there and receive voucher assistance [Notice PIH 2011-3].

Families are required to live in the Housing Division's jurisdiction with voucher assistance for the first 12 months before requesting portability.

Participants

The initial Housing Agency must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease, if the family is in violation of the family obligation, or if the family owes money to the Housing Division.

The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.353(b)].

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

No formal briefing will be required for a participant family wishing to move outside the Housing Division's jurisdiction under portability. However, the Housing Division 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. The Housing Division will provide the name, address, and phone of the contact for Housing Agency in the jurisdiction where the family wishes to move. The Housing Division will advise the family that they will be under the Receiving Housing Agency's policies and procedures, including subsidy standards and voucher extension policies.

For families approved to move under portability, the Housing Division will issue a new voucher within 10 business days of the Housing Division's approval to move. The term of the voucher will be 60 days. Extensions will be granted based on request from RHA and any need for reasonable accommodation.

To receive or continue receiving assistance under the initial Housing Agency's voucher program, a family that moves to another Housing Agency's jurisdiction under portability must be under HAP contract in the receiving Housing Agency's jurisdiction within 120 days following the

expiration date of the initial Housing Agency's voucher term. (See below under "Initial Billing Deadline" for one exception to this policy.)

Preapproval Contact with the Receiving Housing Agency

Prior to approving a family's request to move under portability, the initial Housing Agency must contact the receiving Housing Agency via e-mail or other confirmed delivery method to determine whether the receiving Housing Agency will administer or absorb the family's voucher. Based on the receiving Housing Agency's response, the initial Housing Agency must determine whether it will approve or deny the move [Notice PIH 2011-3].

The Housing Division will use e-mail or fax, when possible, to contact the receiving Housing Agency regarding whether the receiving Housing Agency will administer or absorb the family's voucher.

Initial Notification to the Receiving Housing Agency

After approving a family's request to move under portability, the initial Housing Agency must promptly notify the receiving Housing Agency to expect the family [24 CFR 982.355(c)(2)]. This means that the initial Housing Agency must contact the receiving Housing Agency directly on the family's behalf [Notice PIH 2011-3]. The initial Housing Agency must also advise the family how to contact and request assistance from the receiving Housing Agency [24 CFR 982.355(c)(2)].

Because the portability process is time-sensitive, the Housing Division will notify the receiving Housing Agency by phone, fax, or e-mail to expect the family. The initial Housing Agency will also ask the receiving Housing Agency 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 Housing Division will pass this information along to the family. The Housing Division 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 Housing Agency

The initial Housing Agency is required to send the receiving Housing Agency the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2011-3]
- A copy of the family's voucher [Notice PIH 2011-3]
- 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 2011-3]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(4), Notice PIH 2011-3]

In addition to these documents, the Housing Division will provide the following information, if available, to the receiving Housing Agency:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

Initial Billing Deadline [Notice PIH 2012-42, Letter to Executive Directors, 9/15/15]
The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. 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.

If the Housing Division has not received an initial billing notice from the receiving Housing Agency within 90 days of expiration of the receiving Housing Agency voucher, it will contact the receiving PHA by phone, by the deadline specified on form HUD-52665, it will contact the receiving Housing Agency by phone, fax, or e-mail on the next business day. If the Receiving Housing Agency reports that the family is not yet under HAP contract, the Housing Division will inform the receiving Housing Agency that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The Housing Division will send the receiving Housing Agency a written confirmation of its decision by mail.

The Housing Division 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 Housing Agency.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2012-42]
If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

The initial Housing Agency will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving Housing Agency notifies the initial Housing Agency that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058
If the initial Housing Agency is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving Housing Agency. If the initial Housing Agency fails to receive an updated 50058 by the family's annual reexamination date, the initial Housing Agency should contact the receiving Housing Agency to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]
At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553.

F. RECEIVING HOUSING AGENCY ROLE FOR INCOMING PORTABILITY [24 CFR 982.35 4, 982.355J]

If a family has a right to lease a unit in the receiving Housing Agency's jurisdiction under portability, the receiving Housing Agency must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that the Housing Division is not required to accept incoming portable families, such as a Housing Division in a declared disaster area. However, the Housing Division must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

The receiving Housing Agency's procedures and preferences for selection among eligible applicants do not apply, and the receiving Housing Agency'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 Housing Agency [24 CFR 982.355(7)], and the amount of the family's HAP is determined in the same manner as for other families in the receiving Housing Agency's voucher program [24 CFR 982.355(e)(2)].

Responding to Initial Housing Agency's Request [24 CFR 982.355 9c)]
The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4).

The Housing Division will use e-mail or fax, when possible, to notify the initial Housing Agency whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the Housing Division's jurisdiction under portability, the family is responsible for promptly contacting the Housing Division and complying with the Housing Division's procedures for incoming portable families [24 CFR 982.355(c)(3)]. The family's failure to comply may result in denial or termination of the Housing Division's voucher.

If the voucher issued to the family by the Housing Agency has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)].

If for any reason the receiving Housing Agency 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 2012-42]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving Housing Agency to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2012-42].

The Housing Division will require the family to attend a briefing. The Housing Division will provide the family with a briefing packet and will orally inform the family about the Housing Division's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

The receiving Housing Agency does not redetermine eligibility for a portable family that was already receiving assistance in the initial Housing Agency's voucher program [24 CFR 982.355(c)(9)]. If the receiving Housing Agency opts to conduct a new reexamination for a current participant family, the receiving Housing Agency may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

For any family moving into its jurisdiction under portability, the Housing Division will conduct a new reexamination of family income and composition. However, the Housing Division will not delay issuing the family a voucher for this reason. Nor will the Housing Division delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the Housing Division 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 Housing Division will rely upon any verifications provided by the initial Housing Agency 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(c)(13)]. The family must submit a request for tenancy approval to the receiving Housing Agency during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance
HUD expects the receiving Housing Agency to issue the voucher within two weeks after receiving the family's paperwork from the initial Housing Agency if the information is in order, the family has contacted the receiving Housing Agency, and the family complies with the receiving Housing Agency's procedures [Notice PIH 2016-09].

When a family ports into its jurisdiction, the Housing Division will issue the family a voucher based on the paperwork provided by the initial Housing Agency unless the family's paperwork from the initial Housing Agency is incomplete, the family's voucher from the initial Housing Agency has expired or the family does not comply with the Housing Division's procedures. The Housing Division will update the family's information when verification has been completed.

Voucher Term
The term of the receiving Housing Agency's voucher may not expire before 30 calendar days from the expiration of the initial Housing Agency's voucher [24 CFR 982.355(c)(13)].

The receiving Housing Agency's voucher will expire 30 calendar days from the expiration date of the initial Housing Agency's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]
The receiving Housing Agency may provide additional search time to the family beyond the expiration date of the initial Housing Agency's voucher; however, if it does so, it must inform the initial Housing Agency of the extension. It must also bear in mind the billing deadline provided by the initial Housing Agency. Unless willing and able to absorb the family, the receiving Housing Agency 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 Housing Agency.

If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

The Housing Division will consider an exception to this policy as a reasonable accommodation to a person with disabilities.

Voucher Suspensions [24 CFR 982.303, 24CFR 982.355(c)(15)]
If the family submits a request for tenancy approval during the term of the receiving Housing Agency voucher, the PHA must suspend the term of that voucher. The term of the voucher stops

from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b

Notifying the Initial Housing Agency

The receiving Housing Agency must promptly notify the initial Housing Agency 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 Housing Agency's voucher [24 CFR 982.355(c)(16)]. The receiving Housing Agency is required to use Part II of form HUD-52665, Family Portability Information, for this purpose, [Notice PIH 2016-09].

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving Housing Agency but instead wishes to return to the initial Housing Agency's jurisdiction or to search in another jurisdiction, the receiving Housing Agency must refer the family back to the initial Housing Agency. In such a case the voucher of record for the family is once again the voucher originally issued by the initial Housing Agency. Any extension of search time provided by the receiving Housing Agency's voucher is only valid for the family's search in the receiving Housing Agency's jurisdiction [Notice PIH 2012-42].

G. ADMINISTERING AN INCOMING PORTABLE FAMILY'S VOUCHER

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving Housing Agency intends to administer the family's voucher, the receiving Housing Agency must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving Housing Agency **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 Housing Agency [Notice PIH 2016-09]. A copy of the family's form HUD-50058, Family Report, completed by the receiving Housing Agency must be attached to the initial billing notice. The receiving Housing Agency may send these documents by mail, fax, or e-mail.

The Housing Division will send its initial billing notice by fax or e-mail.

If the receiving Housing Agency 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 Housing Agency is willing to accept the late submission or (b) HUD requires the initial Housing Agency to honor the late submission (e.g., because the receiving Housing Agency is over-leased) [Notice PIH 2012-42].

Ongoing Notification Responsibilities [Notice PIH 2012-42, HUD-52665]

Annual Reexamination. The receiving Housing Agency must send the initial Housing Agency a copy of a portable family's updated form HUD-50058 after each annual reexamination for the

duration of time the receiving Housing Agency is billing the initial Housing Agency on behalf of the family, regardless of whether there is a change in the billing amount.

Change in Billing Amount. The receiving Housing Agency is required to notify the initial Housing Agency, 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
- 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 Housing Agency 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. If the receiving Housing Agency fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial Housing Agency is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2012-42]
If the initial Housing Agency fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving Housing Agency must promptly notify the initial Housing Agency 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 Housing Agency must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving Housing Agency.

If the initial Housing Agency fails to correct the problem by the second month following the notification, the receiving Housing Agency may request by memorandum to the director of the OPH with jurisdiction over the receiving Housing Agency that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the Housing Divisions on the matter must be attached. The receiving Housing Agency must send a copy of the memorandum to the initial Housing Agency. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial Housing Agency is still responsible for any outstanding payments due to the receiving Housing Agency.

Overpayments [Notice PIH 2012-42]
In all cases where the receiving Housing Agency has received billing payments for billing arrangements no longer in effect, the receiving Housing Agency is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial Housing Agency.

In the event that HUD determines billing payments have continued for at least three months because the receiving Housing Agency failed to notify the initial Housing Agency that the billing arrangement was terminated, the receiving Housing Agency must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial Housing Agency.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving Housing Agency of the date and the amount of reimbursement to the initial Housing Agency.

At HUD's discretion, the receiving Housing Agency will be subject to the sanctions spelled out in Notice PIH 2012-42.

Denial or Termination of Assistance
At any time, the receiving Housing Agency may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

If the Housing Division elects to deny or terminate assistance for a portable family, the Housing Division will notify the initial Housing Agency within 10 business days after the informal review or hearing if the denial or termination is upheld in order to provide adequate notice of the effective date to the initial Housing Agency to avoid having to return a payment. In no event should the receiving Housing Agency fail to notify the initial Housing Agency later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665;Notice PIH 2012-42].

H. ABSORBING AN INCOMING PORTABLE FAMILY'S VOUCHER

The receiving Housing Agency may absorb an incoming portable family into its own program when the Housing Division executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the Housing Division 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 2012-42].

If the receiving Housing Agency absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving Housing Agency [24 CFR 982.201(b)(2)(vii)]. The Housing Division will notify the initial Housing Agency 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 receiving Housing Agency absorbs a family after providing assistance for the family under a billing arrangement with the initial Housing Agency, the Housing Division will provide the initial Housing Agency with a 30 days' advance notice to avoid having to return an overpayment. The receiving Housing Agency must specify the effective date of the absorption of the family [Notice PIH 2012-42].

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving Housing Agency's voucher program [24 CFR 982.355(d)], and the receiving Housing Agency becomes the initial Housing Agency in any subsequent moves by the family under portability. [24CFR 982.355(e)(4)].

Chapter 11

TERMINATION OF ASSISTANCE AND TENANCY

INTRODUCTION

HUD regulations specify the reasons that a Housing Authority can terminate a family's assistance, and the ways that such terminations must take place. HUD also dictates 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 of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by The City of Mesquite Housing Division (Housing Division) based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the Housing Division may consider in lieu of termination, the criteria the Housing Division must use when deciding what action to take, and the steps the Housing Division must take when terminating 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 OF ASSISTANCE

I.A. OVERVIEW

HUD requires the Housing Division to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the Housing Division 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 Housing Division.

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

As a family's income increases, the amount of Housing subsidy goes down. If the amount of HCV assistance provided by the Housing Division drops to zero and remains at zero for 180 consecutive calendar days, the family's assistance terminates automatically.

The 180-day period begins with the first day of the month that the zero HAP begins and ends on the last day of the sixth month (e.g. Zero HAP began on October 1, so the 180 days expires on

last day of March. Termination would be effective April 1.) If a participating family receiving zero HAP assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the Housing Division of the changed circumstances and request an interim reexamination before the first day of the sixth month.

I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the Housing Division terminate the family's assistance at any time.

The request to terminate assistance should be made in writing by the head of household, spouse, or co-head and must be provided in person. The Housing Division will accept a request to terminate assistance by mail, fax, or electronically, however, it must be notarized.

I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the Housing Division to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]
The Housing Division 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.

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

If a family moves after the owner has given the family an eviction notice or notice to vacate for serious or repeated lease violations, but before a legal eviction order has been filed with the court, termination of assistance is not mandatory. In such cases the Housing Division 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 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, unauthorized occupants and criminal activity. The criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

Statutory Time Limit [PIH Notice 2019-20]
Statutory time limit FYI-TPV-MHD must terminate the youth's voucher once the 36- month limit on assistance has expired.

Failure to Provide Consent [24 CFR 982.552(b)(3)]
The Housing Division must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]
The Housing Division 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 Housing Division, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 6 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers
[24 CFR 5.218(c), Notice PIH 2010-3]
The Housing Division must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

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

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]
The Housing Division must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements
[24 CFR 982.552(b)(5) and FR 4/10/06]
If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the Housing Division must the 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 Housing Division policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

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

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

I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]
HUD requires the Housing Division to establish policies that permit the Housing Division to terminate assistance if the Housing Division determines that:

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

Use of Illegal Drugs and Alcohol Abuse
The Housing Division will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug and/or abuse of alcohol 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 participation in the Housing Division's HCV program.

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

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

Drug-Related and Violent Criminal Activity [24 CFR 5.100]
Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) or otherwise considered illegal or banned for use.

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.

The Housing Division will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related (misdemeanor or felony), violent criminal activity or felonious criminal activity during participation in the HCV program.

The Housing Division will terminate assistance if any controlled or illegal substance is found inside the subsidized unit, regardless of use by family members or guests.

The Housing Division will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related, violent criminal activity, or felonious criminal activity, and any eviction or notice to evict based on drug-related or criminal activity as well as reports from inspectors, the Mesquite Police Department, and/or credible third parties.

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

Other Authorized Reasons for Termination of Assistance
[24 CFR 982.552(c), 24 CFR 5.2005(c)]
The Housing Division **will** terminate 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.
- Any Housing Agency has ever terminated assistance under the program for any member of the family.
- 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 Housing Agency in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any Housing Agency for amounts the Housing Division 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 any Housing Agency.
- A family member has engaged in or threatened violent or abusive behavior toward Housing Agency personnel.

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

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

In making its decision to terminate assistance, the Housing Division will consider all the facts and the Housing Division may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. If the family is absent from the unit for more than 90 consecutive calendar days, the family's assistance will be terminated. **Absence in this context means that no member of the family is residing in the unit.**

Insufficient Funding [24 CFR 982.454]
The Housing Division may terminate HAP contracts if the Housing Division determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. If the Housing Division determines there is a shortage of funding, prior to terminating any HAP contracts, the Housing Division 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, the Housing Division will terminate HAP contracts as a last resort.

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

PART II: APPROACH TO TERMINATION OF ASSISTANCE

II.A. OVERVIEW

The Housing Division is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the Housing Division the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the Housing Division may choose to take when it has discretion, and outlines the criteria the Housing Division will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

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

The way in that the Housing Division terminates assistance depends upon individual circumstances. HUD permits the Housing Division to terminate 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.

II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the Housing Division 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)].

Repayment of Family Debts
If a family owes amounts to the Housing Division, as a condition of continued assistance, the Housing Division will require the family to repay the full amount or to enter into a repayment agreement, within 60 days of receiving notice from the Housing Division of the amount owed.

Each family will be allowed one repayment agreement as a participant. No additional offers of repayment will be made for failing to report income based on MHD's interim notification policy or annual recertification process.

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

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

Preponderance of the evidence is defined as evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of 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 Housing Division is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

The Housing Division will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents
- 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 program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family
- Other relevant factors as determined by the Housing Division

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]
If the family includes a person with disabilities, the Housing Division's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

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

II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

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

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discussed under the next heading.)

First, VAWA provides that the Housing Division may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the Housing Division, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives the Housing Division the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].
[24 CFR 5.2005(d) and (e)]

Limitations on VAWA Protections

VAWA does not limit the authority of the Housing Division to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the Housing Division does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of the Housing Division to terminate the assistance of a victim of domestic violence, dating violence, or stalking if the Housing Division can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In determining whether a program participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Housing Division will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the Housing Division's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]
When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the Housing Division will request that the individual provide documentation supporting the claim.

The Housing Division reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the Housing Division will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator
Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the Housing Division the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the Housing Division chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the Housing Division must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

The Housing Division may terminate assistance to a family member if the Housing Division determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the Housing Division will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the Housing Division by the victim. The Housing Division will also consider the factors. Upon such consideration, the Housing Division may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the Housing Division does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

II.F. TERMINATION NOTICE

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

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

When the Housing Division notifies an owner that a family's assistance will be terminated, the Housing Division will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

Whenever a family's assistance is proposed for termination, the Housing Division will send a written notice of proposal of termination to the family and to the owner. The Housing Division will also send a form HUD-5382 and HUD-5380 to the family with the proposal of termination notice. The notice will state the date on which the proposed date of termination will become effective. This date generally will be at least 30 calendar days following the date of the Housing Board informal hearing decision, if requested, or proposal termination notice, but exceptions will be made whenever HUD rules, other Housing Division policies, or the circumstances surrounding the termination require. When the Housing Division notifies an owner that a family's assistance will be terminated, the Housing Division will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, a copy of the record must also be provided to the subject of the record [24 CFR 982.553(d)].
- If immigration status is the basis of a family's termination, as discussed in Section 2, the special notice requirements in Section 2 must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the Housing Division is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons that a tenancy is terminated dictate whether assistance also will be terminated.

III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY

[24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

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

Serious or Repeated Lease Violations

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

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

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

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

However, in the case of criminal activity directly related to domestic violence, dating violence, or stalking, if the tenant or an immediate member of the tenant's family is the victim, the criminal activity may not be construed as cause for terminating the victim's.

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

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

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

Evidence of Criminal Activity
The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause
During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do.

During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

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

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

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

III.C. EVICTION

[24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

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

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

If the eviction action is finalized in court, the owner must provide the Housing Division 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.

III.D. DECIDING WHETHER TO TERMINATE TENANCY

[24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

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

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent that 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.

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

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 Housing Division has no other grounds for termination of assistance, the Housing Division may issue a new voucher so that the family can move with continued assistance.

EXHIBIT 11-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that the Housing Division 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 Housing Division or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest. Damages beyond normal wear and tear will be considered to be damages that could be assessed against the security deposit.
- The family must allow the Housing Division 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. The Housing Division 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 or notice to vacate.
  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent and/or utilities, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, unauthorized persons and criminal activity. The criterion to be used will be whether or not the reason for the eviction was the fault of the tenant and/or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
- The family must notify the Housing Division and the owner before moving out of the unit or terminating the lease. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Housing Division at the same time the owner is notified.
- The family must promptly give the Housing Division 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 Housing Division. The family must promptly notify the Housing Division in writing of the birth, adoption, or court-awarded custody of a child. The family must request Housing Division approval to add any other family member as an occupant of the unit. The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. Mesquite Housing will determine eligibility of the new member in accordance with this Plan.
- The family must promptly notify the Housing Division in writing if any family member no longer lives in the unit.

- If the Housing Division has given approval, a foster child or a live-in aide may reside in the unit. The Housing Division has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when Housing Division consent may be given or denied
- The family must not sublease the unit, assign the lease, or transfer the unit. 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 Housing Division 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 Housing Division when the family is absent from the unit. 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 90 calendar days. Written or verbal notice must be provided to the Housing Division 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.
- 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 2 for HUD and Housing Division 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.
- 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 Housing Division has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 12

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 City of Mesquite Housing Division'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 Housing Division. This part describes policies for recovery of monies that the Housing Division has overpaid on behalf of families, or to owners, and describes the circumstances where the Housing Division 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 the Housing Division.

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 Housing Division will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the Housing Division'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 Housing Division's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, and stalking; and maintaining the confidentiality of information obtained from victims.

Part X: INVESTIGATING ERRORS AND PROGRAM ABUSE: This parts contains the process the Housing Division will use when a participant is potentially withholding information causing an error or alleged program abuse.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

I.A. OVERVIEW

The Housing Division will maintain an administrative fee reserves, or unrestricted new position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a Housing Agency fiscal year. If funds in the administrative fee reserve are not needed to cover Housing Authority administrative expenses, the Housing Division may use these funds for other housing purposes permitted by Federal, State and local law.

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

HUD requires the Housing Division's authorized officials to establish the maximum amount that may be charged against the UNP without specific approval.

Expenditures from the UNP account will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the City Manager.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

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 Housing Division to adapt the program to local conditions. This part discusses how the Housing Division 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*: the maximum subsidy a family can receive; and
- *Utility Allowances*: how a family's payment should be adjusted to account for tenant-paid utilities.

II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB]

The payment standard sets the maximum subsidy payment a family can receive from the Housing Division each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions, FMRs are set at the 40th percentile of rents in the market area.

The Housing Division must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the Housing Division's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the Housing Division may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the Housing Division is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

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

The Housing Division 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 Housing Division will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

> **Funding Availability**: The Housing Division 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 Housing Division will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.
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> **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly 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 Housing Division will consider increasing the payment standard. In evaluating rent burdens, the Housing Division will not include families renting a larger unit than their family unit size.
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> **Quality of Units Selected**: The Housing Division 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 Housing Division 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 Housing Division 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 Housing Division 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.
New payment standard schedules will be applied to all new HAP contracts as of the effective date, generally October 1. The new schedules will be applied beginning with the December 1 annual reexaminations.

Exception Payment Standards [982.503(c)]
The Housing Division must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any Housing Agency with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]
Unit-by-unit exceptions to the Housing Division's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. This type of exception does not affect the Housing Division's payment standard schedule.

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

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the Housing Division must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

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

If a substantial percentage of families have difficulty finding a suitable unit, the Housing Division may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the Housing Division to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the Housing Division must demonstrate that during the most recent 6-month period that information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The Housing Division had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The Housing Division had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the Housing Division may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the Housing Division's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]
The Housing Division must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

II.C. UTILITY ALLOWANCES [24 CFR 982.517]

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

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

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the Housing Division must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the Housing Division about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.
The Housing Division has included an allowance for air-conditioning in its schedule. Central air-conditioning or wiring for window air conditioning must be present in a unit before the Housing Division will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require the Housing Division to approve a utility allowance amount higher than shown on the Housing Division's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the Housing Division will approve an allowance for air-conditioning, even if the Housing Division has determined that an allowance for air-conditioning generally is not needed.

Utility Allowance Revisions

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

The Housing Division must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule. A copy of revised utility allowances will be sent to HUD.

PART III: INFORMAL REVIEWS AND HEARINGS

III.A. OVERVIEW

When the Housing Division 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.

The Housing Division is required to include informal review procedures for applicants and informal hearing procedures for participants in this Administrative Plan [24 CFR 982.54(d)(12) and (13)].

III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as

elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

Decisions Subject to Informal Review

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

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

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

- Discretionary administrative determinations by the Housing Division
- General policy issues or class grievances
- A determination of the family unit size under the Housing Division's subsidy standards
- A Housing Division determination not to grant approval of the tenancy
- A Housing Division determination that the unit is not in compliance with the HQS
- A Housing Division determination that the unit is not in accordance with the HQS due to family size or composition

The Housing Division will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the Housing Division waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

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

The Housing Division will notify the applicant of a decision denying assistance within 30 days of initial eligibility appointment, if all documents provided by applicant have been received. The notice must contain a brief statement of the reasons for the Housing Division decision and must describe how to obtain an informal review.

Scheduling an Informal Review

A request for an informal review may be made in writing or by phone to the Housing Division by contacting the Administrator of Housing, no later than the close of the business day specified in the notice.

Applicants will be called to acknowledge receipt of their requests and offered the option of in-person or phone review. The Housing Division will schedule and send written notice of an in-person review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

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

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

Informal Review Decision [24 CFR 982.554(b)]
The Housing Division must notify the applicant of the Housing Division's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the Housing Division will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice.
- The validity of the evidence: the Housing Division 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 Housing Division will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the Housing Division will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The Housing Division will notify the applicant, in writing, 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.

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.

III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

The Housing Division 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 the Housing Division's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the Housing Division's decisions related to the family's circumstances are in accordance with the law, HUD regulations and Housing Division policies.

The Housing Division 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 HAPs under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing
Circumstances where the Housing Division 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 HAP
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Housing Division utility allowance schedule
- A determination of the family unit size under the Housing Division'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 Housing Division policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances where an informal hearing is not required are as follows:

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

The Housing Division will only offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c), PIH Notice 2012-42]
When the Housing Division makes a decision that is subject to informal hearing procedures, the Housing Division must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the Housing Division must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the Housing Division's subsidy standards, the notice must contain a

brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the Housing Division makes a decision where an informal hearing must be offered, the notice to the family will include all of the following. The notice will be sent by certified mail and a copy sent by first-class mail:

- The proposed action or decision of the Housing Division.
- A brief statement of the reasons for the decision.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the Housing Division's decision and a right to examine the documents
- 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 Housing Division's hearing procedures.
- HUD form 5382

Scheduling an Informal Hearing [24 CFR 982.555(d)]
When an informal hearing is required, the Housing Division must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing may be made in writing to the Housing Division by the close of the business day specified in the notice of the Housing Division's decision or notice to terminate assistance. The Housing Division will schedule and send written notice of the informal hearing to the family within 10 business days of the family's request. The notice of hearing date, time and location will be sent by certified mail and a copy sent by first-class mail.

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 that 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 Housing Division 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 Housing Division within 24 hours of the scheduled hearing date, excluding weekends and holidays. The Housing Division 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)]
Participants and the Housing Division are permitted pre-hearing discovery rights. The family must be given the opportunity to examine, prior to the hearing, any of the Housing Division's documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the Housing Division does not make the document available

for examination on request of the family, the Housing Division may not rely on the document at the hearing.

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

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

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

Whenever a participant requests an informal hearing, the Housing Division may request 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 Board [24 CFR 982.555(e)(4)]
Informal hearings will be conducted by a person or persons approved by the Housing Division, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

The Housing Division has designated the Mesquite Housing Board to serve as the Informal Hearing Board on all decisions to terminate assistance or denial to relocate with continued assistance. The Mesquite Housing Board is composed of five citizen volunteers who are appointed by the City Council to serve two year terms.

The Mesquite Housing Board will meet as needed to conduct informal hearings at the request of the family.

Attendance at the Informal Hearing
Hearings shall be attended by the Mesquite Housing Board (quorum required) and may be attended by the following applicable persons:

- A Housing Division representative(s) and any witnesses for the Housing Division
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the Housing Division as a reasonable accommodation for a person with a disability

Conduct at Hearings [24 CFR 982.555(4)(ii)]
The Chairperson of the Mesquite Housing Board or his/her designee 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 Mesquite Housing Board and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the Mesquite Housing Board.

Evidence [24 CFR 982.555(e)(5)]
The Housing Division and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the Mesquite Housing Board 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 that is relevant to the case, for example, a letter written to the Housing Division. 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 Mesquite Housing Board, 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 admissible, hearsay evidence alone cannot be used as the sole basis for Mesquite Housing Board's decision.

Hearing Board's Decision [24 CFR 982.555(e)(6)]
The Mesquite Housing Board will issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

In rendering a decision, the Mesquite Housing Board will consider the following matters:

Housing Division Notice to the Family: The Mesquite Housing Board will determine if the reasons for the Housing Division's decision are factually stated in the Notice.

Discovery: The Mesquite Housing Board will determine if the Housing Division and the family were given the opportunity to examine any relevant documents in accordance with the Housing Division's policy.

Housing Division Evidence to Support the Housing Division's Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The Mesquite Housing Board will evaluate the facts to determine if they support the Housing Division's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The Mesquite Housing Board will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and Housing Division policies. If the grounds for termination are not specified in the regulations or in compliance with the Housing Division's policies, then the decision of the Housing Division will be overturned.

A written notice of the decision will be issued to the family, no later than 10 business days after the hearing. The notice will contain the following information:

Hearing information: Name of the participant and date of the hearing

Conclusions: The Mesquite Housing Board will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence as presented at the hearing and whether these facts uphold the Housing Division's decision.

Order: A statement of whether the Housing Division's decision is upheld or overturned. If it is overturned, in the case of a termination of assistance or denial of relocation for continued assistance, the Housing Division will be required to quit any termination proceedings or issue a voucher for relocation.

Procedures for Rehearing

The Mesquite Housing Board 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 Mesquite Housing Board, the action of the Housing Division will take effect and another hearing will not be granted.

Housing Division Notice of Final Decision [24 CFR 982.555(f)]

The Housing Division is not bound by the decision of the Mesquite Housing Board for matters where the Housing Division is not required to provide an opportunity for a hearing, decisions that exceed the authority of the Mesquite Housing Board, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the Housing Division determines it is not bound by the Mesquite Housing Board's decision in accordance with HUD regulations, the Housing Division must promptly notify the family of the determination and the reason for the determination.

The Housing Division will mail a final decision notice to the participant and their representative. This notice will be sent by certified mail, with a copy by first-class mail.

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

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the Housing Division 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 Housing Division informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]
The notice of denial or termination of assistance for noncitizens must advise the family:

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

USCIS Appeal Process [24 CFR 5.514(e)]
When the Housing Division receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the Housing Division must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the Housing Division with a copy of the written request for appeal and the proof of mailing.

The Housing Division 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 Housing Division with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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

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

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

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the Housing Division provide a hearing. The request for a hearing must be made either within 30 days of receipt of Housing Division 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 Housing Division 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
The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the Housing Division pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing. The family must request discovery of the Housing Division's documents no later than 12:00 p.m. on the business day prior to the hearing.

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

The family must also be provided the opportunity to refute evidence relied upon by the Housing Division, and to confront and cross-examine all witnesses on whose testimony or information the Housing Division 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 Housing Division, as may be agreed upon by the two parties.

Recording of the Hearing
The family is entitled to have the hearing recorded by audiotape. The Housing Division will not audio tape the hearing, unless it is requested by the family.

Hearing Decision
The Housing Division must provide the family with a written final decision, based solely on the facts presented at the hearing, within 10 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Participants [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 Housing Division provide a hearing. The request for a hearing must be made either within 30 days of receipt of Housing Division 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 12-III.C.

Retention of Documents [24 CFR 5.514(h)]
The Housing Division must retain for a minimum of 5 years the following documents that may have been submitted to the Housing Division by the family, or provided to the Housing Division as part of the USCIS appeal or Housing Division 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 HOUSING DIVISION

IV.A. OVERVIEW

The Housing Division is required to include in the Administrative Plan, policies concerning repayment by a family of amounts owed to the Housing Division [24 CFR 982.54]. This part

describes the Housing Division's policies for recovery of monies owed to the Housing Division by families or owners.

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

IV.B. REPAYMENT POLICY

Owner Debts to the Housing Division

Any amount due to the Housing Division by an owner must be repaid by the owner within 30 days of Housing Division 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 Housing Division 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 Housing Division may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the Housing Division.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the Housing Division will ban the owner from future participation in the program until the debt is paid in full. The Housing Division may pursue other modes of collection.

Family Debts to the Housing Division

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

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the Housing Division will terminate assistance and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]
The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the Housing Division where a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

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

Payment Thresholds
Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that the Housing Division has the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

The Housing Division has established the following thresholds for repayment of debts:

- Amounts above $3,000 must be repaid within 60 days or the family will be terminated and referred to the Office of Inspector General (OIG).
- Amounts between $2,000 and $2,999 must be repaid within 36 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

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

- The amount owed by the family to the Housing Division
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses
- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

Execution of the Agreement
Any repayment agreement between the Housing Division and a family must be signed and dated by the Administrator of Housing and by the head of household and spouse/co-head (if applicable).

Due Dates
Payments will be due upon the close of business of the fifteenth of each month. If that date does not fall on a business day, the due date is the close of business on the first business day after the selected date.

Late or Missed Payments
If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Housing Division, the Housing Division will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the Housing Division will terminate assistance.

If the family has missed two consecutive months of payments, or has received three delinquency notices for unexcused late payments, the repayment agreement will be considered in default, and the Housing Division will terminate assistance.

No Offer of Repayment Agreement
The Housing Division will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments
Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds where the Housing Division may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the Housing Division the monthly payment amount specified in the agreement, but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- Renegotiations may only be approved by the Housing Division's Administrator of Housing. No approval will be granted to extend any term beyond the established payment thresholds cited in this section. Repayment agreement requirements can be suspended if the family qualifies for a hardship exemption. The repayment agreement payments will resume once the hardship exemption expires.
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

PART V: MANAGEMENT ASSESSMENT (SEMAP)

V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure Housing Agency performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each Housing Agency as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the Housing Division in several ways.

- High-performing Housing Agencies can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- Housing Agencies with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- Housing Agencies with an overall rating of "troubled" are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, Housing Agencies that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a Housing Agencies failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

V.B. SEMAP CERTIFICATION [24 CFR 985.101]

The Housing Division must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by a Mesquite Housing Board resolution and signed by the Mesquite Housing executive director. If the Housing Agency is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Manager of Housing.

Housing Agencies with less than 250 voucher units are only required to be assessed every other Housing Agency fiscal year. HUD will assess such Housing Agencies annually if the agency elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 CFR 985.105].

Failure of a Housing Agency to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

A Housing Agency's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the Housing Division's SEMAP certification, HUD will rate the Housing Division's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The Housing Division or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the Housing Division's certification on the indicator due to the Housing Division's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A Housing Agency that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the Housing Division has written policies in its Administrative Plan for selecting applicants from the waiting list and whether the Housing Division follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the Housing Division's written policies, according to the Housing Division's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the Housing Division has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the Housing Division follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the Housing Division's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20**

- This indicator measures whether the Housing Division verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.
- Points are based on the percent of files that are calculated and verified correctly, according to the Housing Division's quality control sample.

Indicator 4: Utility allowance schedule
Maximum Score: 5

- This indicator shows whether the Housing Division maintains an up-to-date utility allowance schedule.
- Points are based on whether the Housing Division has reviewed the utility allowance schedule and adjusted it when required, according to the Housing Division's certification.

Indicator 5: HQS quality control inspections
Maximum Score: 5

- This indicator shows whether a Housing Division supervisor reinspects a sample of units under contract during the Housing Division's fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the Housing Division's certification.

Indicator 6: HQS enforcement
Maximum Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any Housing Division-approved extension.
- Points are based on whether the Housing Division corrects all HQS deficiencies in accordance with required time frames, according to the Housing Division's certification.

Indicator 7: Expanding housing opportunities
Maximum Points: 5

- Only applies to Housing Agencies with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the Housing Division has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the Housing Division's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.

- Points are based on whether the Housing Division has adopted and implemented written policies in accordance with SEMAP requirements, according to the Housing Division's certification.

Indicator 8: FMR limit and payment standards
Maximum Points: 5 points

- This indicator shows whether the Housing Division has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the Housing Division's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the Housing Division has appropriately adopted a payment standard schedule(s), according to the Housing Division's certification.

Indicator 9: Annual reexaminations
Maximum Points: 10

- This indicator shows whether the Housing Division completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations
Maximum Points: 5

- This indicator shows whether the Housing Division correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections
Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections
Maximum Points: 10

- This indicator shows whether the Housing Division inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up
Maximum Points: 20 points

- This indicator shows whether the Housing Division enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed Housing Agency fiscal year, or the percent of allocated budget authority that has been expended by the Housing Division, according to data from the Housing Division's last year-end operating statement that is recorded in HUD's accounting system.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances
Maximum Points: 10

- Only applies to Housing Agencies with mandatory FSS programs.
- This indicator shows whether the Housing Division has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders
Maximum Points: 5

- Only applies to Housing Agencies that have received approval to establish success rate payment standard amounts, and isn't effective until the second full Housing Agency fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator
Maximum Points: 5

- Submission of data for this indicator is mandatory for a Housing Agency using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full Housing Agency fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to Housing Agencies that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

VI.A. OVERVIEW

The Housing Division must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the Housing Division must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the Housing Division must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the Housing Division must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting the Housing Division's budget and financial statements for the program;
- Records to document the basis for the Housing Division's determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

VI.C. RECORDS MANAGEMENT

The Housing Division must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

- All applicant and participant information will be kept in a secure location and access will be limited to authorized Housing Division staff.
- Housing Division staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]
The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income

information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the Housing Division may release the information collected.

Upfront Income Verification (UIV) Records

Housing Agencies that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media where the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

Criminal Records

The Housing Division may only disclose the criminal conviction records that the Housing Division receives from a law enforcement agency to officers or employees of the Housing Division, or to authorized representatives of the Housing Division who have a job-related need to have access to the information [24 CFR 5.903(e)].

The Housing Division must establish and implement a system of records management that ensures that any criminal record received by the Housing Division from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose that the record was requested for has been accomplished, including expiration of the period for filing a challenge to the Housing Division action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The Housing Division must establish and implement a system of records management that ensures that any sex offender registration information received by the Housing Division from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose that the record was requested for has been accomplished, including expiration of the period for filing a challenge to the Housing Division action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a Housing Agency other than under 24 CFR 5.905.

Medical/Disability Records

Housing Agencies are not permitted to inquire about the nature or extent of a person's disability. The Housing Division may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Housing Division receives a verification document that provides such information, the Housing Division should not place this information in the tenant file. The Housing Division should destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

VII.A. OVERVIEW

The Housing Division has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the Housing Division is subject to.

VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The Housing Division 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.

The Housing Division 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.

VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the Housing Division 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 Housing Division obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the Housing Division 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 Housing Division must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the Housing Division 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.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

VIII.A. OVERVIEW

The HCV regulations allow Mesquite Housing 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 Housing Division's ability to issue vouchers to families on the waiting list. This part discusses the methodology the Housing Division will use to determine whether or not the Housing Division has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

VIII.B. METHODOLOGY

The Housing Division 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 Housing Division'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 Housing Division 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 Housing Division cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the Housing Division will be considered to have insufficient funding.

If, due to budgetary constraints, the Housing Division must rescind vouchers that have already been issued to families, vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.
Families who have their voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with the Housing Division selection policies described in Chapter 3. [24 CFR 982.302]

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

IX.A. OVERVIEW [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.
In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and the Housing Division policies in three areas: notification, documentation, and confidentiality.

IX.B. DEFINITIONS [24 CFR 5.2003,42 USC 13925]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse 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.
- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in 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.
- The term *stalking* means:
  - 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.

IX.C. NOTIFICATION [24 CFR 5.2005(a), 982.310(H), 982.310(H)(4)]

Notification to Public

The Housing Division adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

The Housing Division will post the following information regarding VAWA in its offices, the Housing Division's website and included with family briefing packets. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to Housing Choice Voucher Program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 12-1)

- A copy of form HUD-5382, Certification of Domestic Violence,
- Dating Violence, Sexual Assault, or Stalking and Alternate
- Documentation (see Exhibit 12-2)
- A copy of the Housing Division's emergency transfer plan (Exhibit 12-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of
- Domestic Violence, Dating Violence, Sexual Assault, or Stalking,
- Form HUD-5383 (Exhibit 12-4)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 12-1)
- Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or terminations of housing benefits.

PHA Policy

The Housing Division will provide all applicants with information about VAWA at the time they request an applicant for housing assistance, as part of the written briefing packet and at the time the family is admitted to the program. The Housing Division will also include information about VAWA in all notices of denial of assistance (see section 2.L).

The Housing Division will provide all participants with information about VAWA at the time of admission (See section 3.J) and at annual reexamination. The Housing Division will also include information about VAWA in notes of termination of assistance, as provided in section 12-III.C.

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 12-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the Housing Division decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk. PHA Policy

Whenever the Housing Division has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the Housing Division may decide not to send mail regarding VAWA protections to the victim's unit if the Housing Division believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the Housing Division will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

The Housing Division will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 12-2 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternate Documentation.

IX.D. DOCUMENTATION [24 CFR 5.2007]

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The Housing Division may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the Housing Division will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the Housing Division will acknowledge receipt of the documentation within 10 business days.

IX.E. EMERGENCY TRANSFER PLAN

Eligibility for Transfer

In accordance with the Violence Against Women Act (VAWA) the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit, regardless of sex, gender identity, or sexual

orientation. The ability of the PHA to honor such request for tenants currently receiving assistance may depend upon:

A. a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and

B. on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

Requesting a Transfer

1. To request an emergency transfer the tenant shall notify the PHA office and submit a written request for a transfer (HUD-5383). The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

> A. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; or
>
> B. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

2. The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. However, the PHA will act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

3. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit.

4. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant cannot establish eligibility for that unit.

5. In cases where the PHA determines that the family's decision to move out of the PHA housing was reasonable under the circumstances, the PHA may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

6. Portability - The tenant will not be denied portability to a unit located in another jurisdiction so long as the tenant has complied with all other requirements of the Housing Choice Voucher program and has moved from the unit in order to protect the health or safety of an individual member of the household who is or has been the victim of domestic violence,

dating violence, sexual assault or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

7. If the PHA has no safe and available units for which a tenant who needs an emergency is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move.

8. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Conflicting Documentation [24 CFR 5.2007(e)]

If presented with conflicting certification documents from members of the same household, the Housing Division will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the Housing Division will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the Housing Division does not receive third-party documentation within the required timeframe (and any extensions) the Housing Division will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the Housing Division will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]
The Housing Division has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

PHA Policy

If the Housing Division accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

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Failure to Provide Documentation [24 CFR 5.2007(c)]
In order to deny relief for protection under VAWA, a Housing Agency must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such

longer time as the Housing Division may allow, the Housing Division may deny relief for protection under VAWA.

IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]
All information provided to the Housing Division 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. This means that the Housing Division (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Housing Division will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

PART XI: INVESTIGATING ERRORS AND PROGRAM ABUSE
12-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

PHA Policy
The Housing Division will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the Housing Division to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.
The Housing Division will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.
Consent to Release of Information [24 CFR 982.516]
The Housing Division may investigate possible instances of error or abuse using all available Housing Davison and public records. If necessary, the Housing Division will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings
PHA Policy
The Housing Division will base its evaluation on a preponderance of the evidence collected during its investigation.
Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not.

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

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

Consideration of Remedies

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

PHA Policy

In the case of family-caused errors or program abuse, Housing Division will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, Housing Division will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

PHA Policy

Housing Division will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which Housing Division determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 12).

FRAUD AND PROGRAM ABUSE RECOVERIES

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

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

• 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or

• Reasonable and necessary costs that Housing Division incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

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

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

PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of Housing Division staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a Housing Division staff member that are considered errors or program abuse related to the HCV

program. Additional standards of conduct may be provided in Housing Division personnel policy.
Housing Division-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

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

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

EXHIBIT 12-1: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER APPLICANTS AND PARTICIPANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for a Section 8 voucher, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, you cannot be terminated from the Section 8 program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

Reasons You Can Be Evicted

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to participants who are not victims.

Removing the Abuser from the Household

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to

stay in the assisted unit. Also, the housing authority can terminate the abuser's Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.

Moving to Protect Your Safety

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing choice voucher program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

Proving That You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority and your landlord can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. The housing authority or your landlord must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

Additionally, at its discretion, the housing authority can accept a statement or other evidence provided by the applicant or participant.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

Confidentiality

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority or your landlord to release the information.
- Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.

VAWA and Other Laws

VAWA does not limit the housing authority's or your landlord's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact the Administrator of Housing.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) 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 (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

EXHIBIT 12-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking. You cannot hold a victim of domestic violence, dating violence, or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- A completed, signed HUD-approved certification form. The most recent form is HUD-50066. This form is available at the housing authority or online at http://www.hud.gov/offices/adm/hudclips/.
- A statement from a victim service provider, attorney, or medical professional who has helped the victim address incidents of domestic violence, dating violence, or stalking. The

professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

- A police or court record, such as a protective order.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

Additional Information

- If you have any questions regarding VAWA, please contact the Administrator of Housing.
- HUD Notice PIH 2006-42 contains detailed information regarding VAWA's certification requirements. The notice is available at http://www.hud.gov/offices/adm/hudclips/.
- For a discussion of VAWA's housing provisions, see the preamble to the final VAWA rule, which is available at http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies

- 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

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) 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 (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

Chapter 13

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

PHA Policy

The PHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the amount of authorized units is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21]]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

PHA Policy

The PHA will not set aside units above the 20 percent program limit.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
  - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
  - The unit was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

PHA Policy

The PHA will not project-base any of the above unit types.

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

PHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the

administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

17-II.A. OVERVIEW

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

Units Selected Non-Competitively [FR Notice 1/18/17: Notice PIH 2017-21]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

PHA Policy

PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

[Mesquite News and The Daily Commercial Record]

In addition, the PHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Proposals will be due in the PHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

PHA Requests for Proposals for Existing Housing Units

The PHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

[Mesquite News and The Daily Commercial Record]

In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The PHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

> Extent to which the applicant has site control and has a purchase contract or option to purchase effective through anticipated closing date;
>
> Location within the City of Mesquite Housing Division's operating jurisdiction
>
> Demonstration of financial feasibility and operational viability
>
> Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
>
> Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;
>
> If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The PHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The PHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

[Mesquite News and The Daily Commercial Record]

In addition to, or in place of advertising, the PHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The PHA will evaluate each proposal on its merits using the following factors:

> Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

The PHA may only compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

PHA Notice of Owner Selection [24 CFR 983.51(d)]

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

<u>PHA Policy</u>

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the PHA will publish its notice for selection of PBV proposals in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after

publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 CFR 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;

- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 1/18/17, and Notice PIH 2017-21]]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or A HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible A PHA may not require participation in the supportive service as a condition of living in the 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 PHA 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.

<u>PHA Policy</u>

Excepted units will be limited to units for elderly families.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP under which the project was selected or the PHA selected the project without competition, the unit met at least one of the two following conditions:
  - The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,
  - The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

PHA Policy

The PHA does not have any PBV units that are subject to the per project cap exception.

Promoting Partially-Assisted Projects [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 percent.

PHA Policy:

The PHA will not provide assistance for excepted units. Beyond that, the PHA will not impose any further cap on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic

opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

PHA Policy

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the PHA will grant exceptions to the 20 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to 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.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or A HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.**Pre-HAP Contract Inspections [24 CFR 983.103(b)]**

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

> PHA Policy
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> The PHA will inspect all PBV units on an annual basis to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

Content of the Agreement [24 CFR 983.152(d)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If

applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;

- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

PHA Policy

The PHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

> PHA Policy
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> The PHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The PHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

PHA Policy

For existing housing, the HAP contract will be executed within 10 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205; FR Notice 1/18/17, and Notice PIH 2017-21]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

PHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

PHA Policy

When determining whether or not to extend an expiring PBV contract, the PHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

Termination by PHA [24 CFR 983.205(c) ; FR Notice 1/18/17]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based

assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.208(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

PHA Policy

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

PHA Policy

The PHA will not add contract units to the HAP contract.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on

different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into

a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

PHA Policy

The PHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

PHA Policy

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The

PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

PHA Policy

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

PHA Policy

The PHA will establish and manage a separate waiting list for the whole PBV program once it has offered PBV assistance to applicants on it's tenant-based waiting list.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with "excepted units" for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

> PHA Policy
>
> The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The PHA 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 PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

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

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

> PHA Policy
>
> The owner must notify the PHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.
>
> The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

PHA Policy

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the PHA's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

PHA Policy

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

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

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

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

PHA Policy

The PHA will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);

- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

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

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

> PHA Policy
>
> The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

PHA Policy

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the

family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

The PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program

requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

PHA Policy

The PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

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 tem 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 PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or

- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordable with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordable with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

PHA Policy

The PHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the PHA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

PHA Policy

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs (either by HUD-designation or because the PHA requested HUD approval to use SAFMRs) may apply SAFMRs to all future PBV HAP contracts.

PHA Policy

The PHA will not apply SAFMRs to the PHA's PBV program.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

PHA Policy

An owner's request for a rent increase must be submitted to the PHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

This section clarifies that the PHA may decrease the rent to owner based on program requirements, regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

PHA Policy

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-Owned Units [24 CFR 983.301(g)]

Any rent changes for PHA-owned units must be determined by the independent entity approved by HUD.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

> PHA Policy
>
> If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

> PHA Policy
>
> If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.
>
> In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA Policy

The PHA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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
FYI-TPV	Foster Youth to Independence-Tenant Protection Voucher
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
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
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 2013

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by 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.

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.

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

Citizen. *A* citizen or national of the United States.

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 HQS 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.

Dependent Child. Dependent child in the context of the student eligibility restrictions, means a dependent child of an enrolled student who meets the criteria of 24 CFR 5.612. In this context, "dependent child" is defined in HUD's income eligibility regulations at 24 CFR 5.603 is 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 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.

Foster Youth to Independence-Tenant Protection Voucher. The initiative that serves at risk of homelessness youth under the age of 25, with a history of child welfare involvement, for up to 36 months.

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.)

Housing Quality Standards. 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 during 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 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.

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

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 HQS. 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.

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.

Parents For purposes of the Section 8 student eligibility restrictions. Consistent with long-standing HUD policy regarding eligibility for the Section 8 programs, means the biological or adoptive parents, or guardians (e.g., grandparents, aunt/uncle, godparents, etc.), or such other definition as may be adopted by the PHA, Owner, or Manager through appropriate amendment to its admissions policies.

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 age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("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.

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

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.

Vulnerable youth. An individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16 :
The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison
The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
A financial aid administrator

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (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).