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# CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

## INTRODUCTION

Minneapolis Public Housing Authority in general receives funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development (HUD). MPHA is not a federal department or agency. MPHA is a governmental or public body, created by Minn. Stat. Chapter 469 and City Ordinance Chapter 420 to develop and operate housing and housing programs for qualifying families. MPHA enters into an Annual Contributions Contract (ACC) with HUD to administer the program requirements on behalf of HUD. MPHA must ensure compliance with applicable laws, regulations, ordinances and codes. .

On January 9, 2008, the Minneapolis Public Housing Authority entered into an Amended and Restated Moving to Work Agreement (MTW Agreement) with HUD. As a Moving to Work (MTW) agency, MPHA has the flexibility to waive certain regulatory provisions applicable to the MTW vouchers administered under the HCV Program.

This chapter contains information about MPHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

**PART I: THE PHA**

**1-I.A. OVERVIEW**

MPHA has operated as an independent agency since 1991, though public housing has existed in Minneapolis since the 1930s. MPHA owns and operates approximately 5,800 public housing units and, administers about 4400 to 4700 HCV vouchers.

Sumner Field homes development was the first public housing development in Minneapolis on the near northside which was completed in the late 1930s. At that time, public housing locally was a federally-operated program.

In 1947, Minneapolis Mayor Hubert Humphrey and the Minneapolis City Council created the Minneapolis Housing and Redevelopment Authority (MHRA) that was responsible for operating various community development and housing programs, including public housing. The MHRA developed the vast majority of the public housing in service today, and in 1980, became the Minneapolis Community Development Agency (MCDA). Public housing operated as a division of MCDA until MPHA was separated in 1990-91 into an independent agency.

**1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA**

MPHA is governed by a Board of Commissioners. Commissioners are appointed in accordance with applicable law, regulation and ordinance. The power of the MPHA is vested in Board. The Board takes formal action by adopting written resolutions which are part of MPHA’s official record. The Board appoints the Executive Director (ED) subject to confirmation by the City Council. The ED serves at the pleasure of the Board as the principal administrator of MPHA and has the final authority for all personnel decisions.

**1-I.C. PHA MISSION**

The mission of the Minneapolis Public Housing Authority (MPHA) is to promote and deliver quality, well-managed homes to a diverse low-income population and, with partners, contribute to the well-being of the individuals, families and community we serve.

**1-I.D. THE PHA’S PROGRAMS**

The PHA’s administrative plan is applicable to the operation of the Housing Choice Voucher program. These policies also apply to families who participate in the FSS program. See Chapter 18.

**1-I.E. THE PHA’S COMMITMENT TO ETHICS AND SERVICE**

MPHA is committed to providing excellent service to its HCV program participants, and owners. The PHA’s goals include:

* Compliance with applicable laws, regulations, ordinances and codes to achieve high ratings while maintaining efficient program operation and the fair and consistent treatment of clients served.
* Provide decent, safe, and sanitary housing and fair rents in compliance with program requirements for qualifying families.
* Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
* Promote fair housing and the opportunity for qualifying families of all ethnic backgrounds to experience freedom of housing choice.
* Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to qualifying families.
* Promote a market-driven housing program that will help qualified 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 MPHA’s mission.
* Attain and maintain a high level of standards and professionalism in the management of all program components.
* Administer an efficient, high-performing agency through continuous improvement of the MPHA’s support systems and commitment to our employees and their development.

**PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

**1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM**

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program, the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. If the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family was eligible to receive rental assistance in leasing the unit. Family contribution to rent was generally set at 30 % of the family’s adjusted income, with the remainder of the rent paid by the program.

The rental assistance remained with the eligible family, if the family moved to another privately-owned rental unit that met program requirements. Consequently, the Certificate program was characterized as tenant-based assistance.

The HCD Act of 1987 authorized a new version of tenant-based assistance, the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. Also, family contribution to rent was not set at a limit of 30 % percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family may pay more or less than 30% of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to combine and align the two housing programs.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition from the Certificate and Voucher programs to the HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

**1-II.B. HCV PROGRAM BASICS**

The purpose of the HCV program is to provide rental assistance to eligible families as provided by HUD rules and regulations. A PHA has discretion in the operation of the program which are included in an administrative plan which is approved by its board of commissioners. The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA’s jurisdiction and may also be eligible to move under portability to other PHAs’ jurisdictions.

When a family is determined to be eligible for the program and funding is available, the PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The PHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

**1-II.C. THE HCV PARTNERSHIPS**

To administer the HCV program, the PHA enters into a contractual relationship with HUD. The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the following page illustrates key aspects of these relationships.

**The HCV Relationships:**

**Congress**

**Appropriates**

**Funding**

**HUD**

**Provides Funding**

**To PHA**

**Program Regulations and ACC specifies PHA Obligations and Voucher Funding**

**PHA**

**Administers**

**Program**

**Owner / Landlord**

**Voucher specifies Family Obligations**

**Housing Assistance Payments (HAP) Contract specifies Owner and PHA Obligations**

**Lease specifies Tenant and Landlord Obligations**

**Family**

**(Program Participant)**

**What does HUD do?**

HUD has the following major responsibilities:

1. Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
2. Allocate HCV program funds to PHAs;
3. Provide technical assistance to PHAs on interpreting and applying HCV program requirements; and
4. Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

**What does the PHA do?**

The PHA administers the HCV program under contract with HUD and has the following major responsibilities:

1. Establish local policies;
2. Review applications from interested applicant families to determine whether applicants are eligible for the program;
3. Maintain waiting list and select families for admission;
4. Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
5. Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
6. Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
7. Make housing assistance payments to the owner in a timely manner;
8. Ensure that families and their rental units continue to qualify under the program;
9. Ensure that owners and families comply with program rules;
10. Provide families and owners with prompt, professional service; and
11. Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA’s administrative plan, and other applicable federal, state and local laws.

**What does the Owner do?**

The owner has the following major responsibilities:

1. Screen families who apply for tenancy, to determine if they will be good renters. The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
2. The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
3. Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
4. Comply with all applicable fair housing laws and discriminate against no one;
5. Maintain the housing unit by making necessary repairs in a timely manner;
6. Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

**What does the Family do?**

The family has the following responsibilities:

1. Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
2. Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
3. Cooperate in attending all appointments scheduled by the PHA;
4. Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
5. Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
6. Comply with the terms of the lease with the owner;
7. Comply with the family obligations of the voucher;
8. Not commit serious violations of the lease;
9. Not engage in drug-related or violent criminal activity;
10. Notify the PHA and the owner before moving or termination the lease;
11. Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
12. Promptly notify the PHA of any changes in family composition;
13. Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

## 1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

* 24 CFR Part 5: General Program Requirements
* 24 CFR Part 8: Nondiscrimination
* 24 CFR Part 35: Lead-Based Paint
* 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
* 24 CFR Part 983: Project-Based Voucher Program

## PART III. THE HCV ADMINISTRATIVE PLAN

## 1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements, MPHA’s MTW Agreement, and local goals and objectives contained in MPHA’s MTW Annual Plans. This administrative plan is a supporting document to MPHA’s MTW Annual Plan, and is available for public review.

MPHA’s Administrative Plan includes policies that have been developed and implemented under the MTW program. The policies adopted by MPHA, under the MTW Agreement, will remain in effect through the term of the Agreement and will supersede existing and applicable HUD requirements unless and until amended. Program policies related to the Housing Choice Voucher (HCV) Program and not addressed in this Plan are governed, as applicable, by MPHA’s MTW Agreement, Annual Plans and Federal statutes and regulations as well as other applicable law.

The MTW policies do not apply to the following programs:

* Mod/Rehab and Mod/Rehab SRO
* VASH
* Family Unification Program
* Continuum of Care

The MTW policies except Rent Reform will apply to these programs:

* + Preservation Vouchers
  + Project Based Units

All MTW policies apply to the remaining programs

1-III.B. CONTENTS OF THE PLAN

MPHA’s administrative plan covers policies on these subjects:

* Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);
* Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means 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 (Chapter 5);
* Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
* Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
* Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
* Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
* Providing information about a family to prospective owners (Chapters 3 and 9);
* Disapproval of owners (Chapter 13);
* Subsidy standards (Chapter 5);
* Family absence from the dwelling unit (Chapter 12) ;
* How to determine who remains in the program if a family breaks up (Chapter 3);
* Informal review procedures for applicants (Chapter 16);
* Informal hearing procedures for participants (Chapter 16);
* The process for establishing and revising voucher payment standards (Chapter 16);
* The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
* Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
* Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
* Interim redeterminations of family income and composition (Chapter 11);
* Restrictions, if any, on the number of moves by a participant family (Chapter 10);
* Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
* Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
* PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

### Mandatory, MTW and Discretionary Policies

There is a distinction between mandatory, MTW and discretionary policies:

* Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions. Generally, unless amended by an MTW policy, mandatory policies apply to all tenant based and project based voucher programs;
* MTW policies: those authorized under MPHA’s MTW Agreement and approved by HUD in the MTW Annual Plan. Generally, unless specific exclusions are stated, these policies apply to units/vouchers that receive MTW funding.
* Discretionary Policies: those policies which are optional and binding. Policies may originate from guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff. Generally, these policies apply to all tenant and project based voucher programs unless specific exclusions are stated.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to clarify the MTW and discretionary policies the PHA has adopted. The PHA's administrative plan is the foundation of those policies. HUD’s directions require PHAs to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a “safe harbor.” HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, the MTW Agreement and other mandatory requirements.

## 1-III.C. ORGANIZATION OF THE PLAN

The Plan is organized to provide information to users in particular areas of operation.

## 1-III.D. UPDATING AND REVISING THE PLAN

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations and MTW policies. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

PHA Policy

The PHA will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, MTW policies, PHA operations, or when needed to ensure staff consistency in operation.

### 1-III.E IDENTIFYING MTW AND NON-MTW POLICIES

Policies that are adopted by MPHA, under the MTW Agreement, are specifically noted in the Plan as MTW policies. Where a Plan policy relates to MTW, the policy citation will state “MTW Policy”. Finally, where regulatory citations are specifically identified in this Plan, if a corresponding MTW policy is in effect, the MTW policy will supersede the existing and applicable HUD regulatory citation and any other MPHA policy.

The following table reflects the MTW policies contained in MPHA’s Administrative Plan including the respective effective date for each policy initiative.

| **Chapter** | **Part** | **Heading/Topic** | **Effective Date** |
| --- | --- | --- | --- |
| Chapter 1: Overview of the Program & Plan | Introduction | Introduction | 1/9/2008 |
| Part III. The HCV Administrative Plan | Overview & Purpose of the Plan. |  |
| Mandatory, MTW & Discretionary Policies |  |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income – Earned Income | Certain Earned Income of Full-Time Students | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income - Earned Income Disallowance for Persons with Disabilities | Earned Income Disallowance for Persons with Disabilities | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income - Assets | Income from Assets | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income - Assets | Valuing Assets | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income - Assets | Imputing Income from Assets | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income - Assets | Determining Actual Anticipated Income from Assets | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part I: Annual Income - Assets | Types of Assets | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Adjusted Income Overview | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Working Family Incentive | 10/1/2010 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Dependent Deduction | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Elderly or Disabled Family Deduction | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Medical Expense Deduction | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Disability Assistance Expense Deduction | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part II: Adjusted Income | Childcare Expense Deduction | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Tiered Subsidy Approach | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Rent Reform Transition Hardship | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Reasonable Accommodation for Additional Subsidy | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Minimum Rent | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Family Share | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | PHA Subsidy | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Utility Reimbursement | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Minimum Rent Hardship Policy | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Payment Standards | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Applying Utility Allowances | 1/1/14 |
| Chapter 6:  Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Revised Utility Allowances | 1/1/14 |
| Chapter 6: Income & Subsidy Determinations | Part III: Calculating Family Share & PHA Subsidy | Prorated Assistance for Mixed Families | 1/1/14 |
| Chapter 7: Verification | Part III: Verifying Income & Assets | Verification of Asset Income | 1/1/14 |
| Chapter 8: Housing Quality Standards & Rent Reasonableness Determinations | Part III: Rent Reasonableness Determinations | When Rent Reasonableness Determinations are Required | 1/1/14 |
| Chapter 9 General Leasing Policies | Part I: General Leasing Policies | Rent Burden | 1/1/14 |
| Chapter 10: Moving with Continued Assistance and Portability | Part II: Portability | Eligibility for Port-Out | 1/1/14 |
| Chapter 11: Reexaminations | Part II: Interim Reexaminations | Limit on Optional Interim Reexaminations | 1/1/14 |
| Chapter 11: Reexaminations | Part II: Interim Reexaminations | Interim Reexamination Hardship Policy | 1/1/14 |
| Chapter 11: Reexaminations | Part III: Recalculating Family Share and Subsidy Amount | Utility Allowances | 1/1/14 |
| Chapter 17: Redetermination of Rent | Part VIII: Determining Rent to Owner | Redetermination of Rent | 1/1/14 |
| Chapter 17: Project-Based Vouchers | Part VIII: Determining Rent to Owner | When Rent Reasonable Determinations are Required | 1/1/14 |

Chapter 2

**FAIR HOUSING AND EQUAL OPPORTUNITY**

**INTRODUCTION**

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

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

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

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

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

**PART I: NONDISCRIMINATION**

**2-I.A. OVERVIEW**

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections

regarding sexual orientation, gender identity, and marital status. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

* Title VI of the Civil Rights Act of 1964
* Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
* Executive Order 11063
* Section 504 of the Rehabilitation Act of 1973
* The Age Discrimination Act of 1975
* Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
* 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.

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

PHA Policy

MPHA will comply with the following state and local Nondiscrimination Laws:

* Minneapolis Civil Rights Ordinance
* Minnesota Human Rights Act.

**2-I.B. NONDISCRIMINATION**

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

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

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

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

PHA Policy

The PHA does not identify any additional protected classes.

The PHA will not use any of these factors to:

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

**Providing Information to Families and Owners**

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

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

* Upon receipt of a housing discrimination complaint, alleging discrimination based on actual or perceived sexual orientation, gender identity, or marital status the PHA 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 based on actual or perceived sexual orientation, gender identity, or marital status may notify the PHA either orally or in writing.

Within 10 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA 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 MPHA will conduct an investigation into all allegations of discrimination based on actual or perceived sexual orientation, gender identity, or marital status against the MPHA or an Owner to determine if a violation occurred and implement a corrective action(s) to remedy the discrimination.

Within 10 business days following the conclusion of the PHA's investigation, the PHA 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 PHA will keep a record of all complaints based on actual or perceived sexual orientation, gender identity, or marital status, investigations, notices, and corrective actions. (See Chapter 16.)

**PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES**

**2-II.A. OVERVIEW**

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

The PHA will comply with its Reasonable Accommodation Policy, Appendix C.

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

**2-III. OVERVIEW**

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

The PHA will comply with its Limited English Proficient Policy, Appendix B.

**Chapter 3**

**ELIGIBILITY**

**INTRODUCTION**

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

To be eligible for the HCV program:

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

This chapter contains three parts:

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

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

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

**PART I:** **DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**

**3-I.A. OVERVIEW**

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

**3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), FR Notice 2/3/12; 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 PHA 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.

**Household**

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

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

**Family Break-up [24 CFR 982.315]**

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

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

PHA Policy

In the absence of a judicial decision, or an agreement among the original family members, the PHA will determine which family member(s) may continue to receive assistance taking 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) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals. MPHA will adhere, to the extent applicable, to our VAWA Policy (Appendix D)

**Remaining Member of a Tenant Family [24 CFR 5.403]**

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

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

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

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

PHA Policy

The head of household must have the legal capacity to enter into a lease under state and local law.

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

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

*Spouse* means the marriage partner of the head of household.

A *co-head* 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 co-head.

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

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

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

**Joint Custody of Dependents**

PHA Policy

When more than one applicant or participant family is claiming the same dependents as family members, the family who has physical custody of the child or children at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, school records, receipt of benefits on behalf of the child.

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

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

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

**3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 2/3/2012**

**Elderly Persons**

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

**Near-Elderly Persons**

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

**Elderly Family**

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

**3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]**

**Persons with Disabilities**

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

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

**Disabled Family**

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

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

**3-I.J. GUESTS [24 CFR 5.100]**

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

PHA Policy

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

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

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

**3-I.K. FOSTER CHILDREN AND FOSTER ADULTS**

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

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

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

PHA Policy

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

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

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

**3-I.L. ABSENT FAMILY MEMBERS**

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

**Definitions of Temporarily and Permanently Absent**

PHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

**Absent Students**

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member as long as verifiable documentation is submitted to the PHA as requested. Examples of accepted verification include – Proof of out of state tuition or on campus residence.

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

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

PHA Policy

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

**Absent Head, Spouse, or Cohead**

PHA Policy

An employed head, spouse, or cohead absent from the unit more than 90 consecutive days due to employment relocation will continue to be considered a family member.

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

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

PHA Policy

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

**Return of Permanently Absent Family Members**

PHA Policy

The family must request PHA approval in writing for the return of any adult family members that the PHA has previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter. The return of the absent adult family member does not guarantee an increase in unit size.

A household add-on is not a member of the original family, or if an original member has been designated as permanently absent and is not a dependent of the voucher holder. A household add-on will not increase the voucher size for which a voucher holder qualifies without the household add-on. If a voucher holder voluntarily gives up the voucher rental subsidy, the household add-on does not have any rights to the voucher.

**3-I.M. LIVE-IN AIDE**

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

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

The 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

PHA Policy

A family’s request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable medical professional, such as a doctor that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

In addition, the family and live-in aide will be required to submit a certification form provided by the PHA, stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, (2) would not be living in the unit except to provide the necessary supportive services, and (3) qualified to provide services as a live-in aide. The PHA may request proof of ability to provide necessary supportive services.

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

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

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

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

The PHA may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA’s subsidy standards for an unidentified live-in aide.

Within 30 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

### PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

### Income Limits

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

**Definitions of the Income Limits [24 CFR 5.603(b)]**

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

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

*Extremely low-income family.* A family whose annual income does not exceedthe federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Using Income Limits for Eligibility [24 CFR 982.201]**

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

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

PHA Policy

The PHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the PHA.

* A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
* A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

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

PHA Policy

The PHA has not established any additional categories of eligible low-income families.

**Using Income Limits for Targeting [24 CFR 982.201]**

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

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

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

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

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

**Declaration [24 CFR 5.508]**

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

***U.S. Citizens and Nationals***

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

PHA Policy

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

***Eligible Noncitizens***

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

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

***Ineligible Noncitizens***

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

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

**Mixed Families**

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

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

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

PHA Policy

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

When a PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 30 business days of the determination.

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

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

PHA Policy

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

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

The applicant and all members of the applicant’s household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an

applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be

admitted to the program and must disclose and document the child’s SSN within 90 days of the

effective date of the initial HAP contract. The PHA will grant one additional 90-day extension if needed for reasons beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

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

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

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

PHA Policy

At the time of admission and with any additions of adult members to the household, the PHA will conduct a criminal history background check through an independent contracted service for every person 18 years of age or older.

**3-II.E. 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 PHA policy, the income of the student’s parents will not be considered in determining the student’s eligibility.

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

**Definitions**

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

***Dependent Child***

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

***Independent Student***

PHA Policy

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

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:

Be at least 24 years old by December 31 of the award year for which aid is sought

Be an orphan or a ward of the court through the age of 18

Be a veteran of the U.S. Armed Forces

Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)

Be a graduate or professional student

Be married

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.

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

***Institution of Higher Education***

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

***Parents***

PHA Policy

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

***Person with Disabilities***

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

***Veteran***

PHA Policy

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

**Determining Student Eligibility**

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

PHA Policy

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

Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligible for the program

Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student’s parents are income eligible for the program

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

***Determining Parental Income Eligibility***

PHA Policy

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

If the student’s parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.

If the student’s parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.

If the student’s parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

**PART III: DENIAL OF ASSISTANCE**

### 3-III.A. OVERVIEW

A family that does not meet the following eligibility criteria discussed in Parts I and II, must be denied assistance. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

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

Denial of assistance includes any of the following:

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

**Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b)]**

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

* Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
* Where a family lives prior to admission to the program
* Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, 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 has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

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

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

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

PHA Policy

The PHA may admit an otherwise-eligible family who has been evicted from federally-assisted housing in the last 5 years (from the date of eviction) for drug-related criminal activity, if the PHA determines that the household member who has engaged in the criminal activity has completed a supervised drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household due to death or imprisonment.

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

PHA Policy

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

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

PHA Policy

In determining reasonable cause, the PHA will 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.

* Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing

PHA Policy

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied assistance.

* Any household member is subject to a lifetime registration requirement under a State sex offender registration program

### 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

**Criminal Activity [24 CFR 982.553]**

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

PHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five 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].

*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 which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

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

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

Any conviction for drug-related or violent criminal activity within the past

5 years.

Records of arrests for drug-related or violent criminal activity within the past 5

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.

Any record of eviction from public or privately-owned housing as a result of

criminal activity within the past 5 years.

A conviction for drug-related or violent criminal activity will be given more

weight than an arrest for such activity.

In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

### Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family’s previous behavior in assisted housing:

PHA Policy

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

The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted or terminated from federally-assisted housing in the last five years.

Any PHA has ever terminated assistance under the program for any member of the family within the last five years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the enforceable debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, 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 with MPHA, unless the family repays the full amount of the debt 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 PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

### 3-III.D. SCREENING

**Screening for Eligibility**

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

PHA Policy

The PHA will perform a criminal background check through an independent contracted service for every person 18 years of age or older at intake and whenever the PHA has a reasonable belief that a participant has engaged in fraudulent or criminal activity.

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

PHA Policy

The PHA will perform a search for registered sex offenders as part of the criminal background check done through an independent contracted service to screen applicants for admission.

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

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

**Screening for Suitability as a Tenant [24 CFR 982.307]**

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

PHA Policy

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

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

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

Please see the PHA’s VAWA Policy regarding the disclosure of confidential information provided under that Policy.

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, exclusive of VAWA, at the time of the initial HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history or criminal history.,

MPHA will comply with its VAWA policy. Refer to Appendix D.

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

**Evidence [24 CFR 982.553(c)]**

# PHA Policy

The PHA will use the concept of the preponderance of the evidence standard for making all admission decisions. See section 16-III.C. for additional information regarding evidence.

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

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

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

# PHA Policy

The PHA may consider the following factors when making its decision:

The seriousness of the case, especially with respect to how it would affect other residents

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking

The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future

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 PHA

may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA 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, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The PHA will require the applicant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

**Removal of a Family Member's Name from the Application**

Should the PHA’s screening process reveal that an applicant’s household includes an individual

subject to state lifetime registered sex offender registration, the PHA must offer the family the

opportunity to remove the ineligible family member from the household. If the family is

unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

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

PHA Policy

As a condition of receiving assistance, a family must 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 reside in the assisted unit.

After admission to the program, the family must present evidence of the former family member’s current address (if known) upon PHA request.

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

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

PHA Policy

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

### 3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

**Eligible for Assistance**

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

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

If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record [24 CFR 982.553(d)].

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

PHA Policy

The family will be notified of a decision to deny assistance in writing within 30 calendar days of the determination.

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

PHA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the PHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 30 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 30 calendar day period, the PHA 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.

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

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Appendix D.

**Chapter 4**

**APPLICATIONS, WAITING LIST AND TENANT SELECTION**

**INTRODUCTION**

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the PHA with the information needed to determine the family’s eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA, that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the PHA’s waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

**PART I: THE APPLICATION PROCESS**

**4-I.A. OVERVIEW**

This part describes the PHA policies for making applications available, accepting applications, making preliminary determinations of eligibility and the placement of applicants on the waiting list. This part also describes the PHA’s obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

**4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16]**

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA’s application.

PHA Policy

Based upon the length of time an applicant may need to wait to receive assistance, the PHA will use a two-step application process.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family’s eligibility, and to determine the family’s placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Refer to LEP Appendix B for MPHA’s plan to provide meaningful access to all of its programs and activities

**4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

**24 CFR 8 and HCV GB, pp. 4-11 – 4-13**

The PHA must comply with its Reasonable Accommodation Policy at Appendix C and Limited English Profiency Policy (LEP) at Appendix B in making the application process accessible to disabled applicants or applicants who need language assistance.

**4-I.D. PLACEMENT ON THE WAITING LIST**

The PHA must review each complete application received and make a preliminary assessment of the family’s eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

**Ineligible for Placement on the Waiting List**

PHA Policy

If the PHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

**Eligible for Placement on the Waiting List**

PHA Policy

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.

Applicants will be placed on the waiting list based on a lottery drawing from all submitted applications. The number of applicants selected will be determined by an anticipated wait time between 36 – 60 months. Selected applicants will be placed on the list according to their preference points, date and randomly assigned time.

Project Based participants will be placed on a separate Waiting List. As tenant based vouchers become available, Project Based Applicants will be issued twenty percent (20%) of the available vouchers. (See Chapter 17 Part VI).

**PART II: MANAGING THE WAITING LIST**

**4-II.A. OVERVIEW**

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

**4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]**

The PHA’s HCV waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

* Applicant name;
* Family unit size;
* Date and time of application;
* Qualification for any local preference;
* Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

PHA Policy

The PHA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs’ waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family’s decision to apply for, receive, or refuse other housing assistance must not affect the family’s placement on the HCV waiting list, or any preferences for which the family may qualify.

PHA Policy

The PHA will not merge the HCV waiting list with the waiting list for any other program the PHA operates.

**4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]**

**Closing the Waiting List**

A PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

PHA Policy

The PHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where the PHA has particular preferences or funding criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

**Reopening the Waiting List**

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

PHA Policy

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

The PHA will give public notice by publishing the relevant information in suitable media outlets.

**4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]**

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to admit a specified percentage of extremely low- income families to the program (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

* Analyzing the housing market area and the populations currently being served to identify underserved populations
* Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
* Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

* Submitting press releases to local newspapers, including minority newspapers
* Developing informational materials and flyers to distribute to other agencies
* Providing application forms to other public and private agencies that serve the low income population
* Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

PHA Policy

The PHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA’s jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

**4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

PHA Policy

While the family is on the waiting list, the family must immediately inform the PHA of changes in mailing address. The changes must be submitted in writing.

**4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]**

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

**Purging the Waiting List**

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates and the PHA determines that the family did not respond because of the family member’s disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

PHA Policy

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

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

The family’s response must be in writing and be delivered by mail or by fax before stated deadline.

If the family fails to respond by the stated deadline, the family will be removed from the waiting list without further notice.

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

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

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error, applicant need based on a reasonable accommodation (see Appendix C) or to circumstances beyond the family’s control. The PHA may reinstate the family if the applicant makes contact with the PHA within one year of the date the record was withdrawn.

**Removal from the Waiting List**

PHA Policy

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

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

**PART III: SELECTION FOR HCV ASSISTANCE**

**4-III.A. OVERVIEW**

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA’s selection policies [24 CFR 982.204(b) and 982.207(e)].

**4-III.B. SELECTION AND HCV FUNDING SOURCES**

**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 PHA may admit such families whether or not they are on the waiting list, and if they are on the waiting list without considering the family’s position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding.

PHA Policy

Under certain circumstances applicants may be assisted who are not on the Waiting List, or without considering families’ positions on the Waiting List.  In these cases the PHA must maintain records showing that such families were admitted under Special Admissions.  Such circumstances may occur when:

1. HUD awards funding for specifically-named families living in specified types of units, e.g., a family displaced by demolition of public housing; a family displaced because of mortgage prepayment for voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165); a non-purchasing family residing in a HOPE 1 or 2 Project;
2. If the PHA is unable to provide a qualified referral, the PHA will accept written referrals from the Project Based owner to be placed on the waiting list.
3. MPHA’s Executive Director or Deputy Executive Director approves a transfer of Public Housing Residents to the Section 8/Housing Choice Voucher Program under extraordinary circumstances, which could include transfers to accommodate Section 504 requests or displacement due to a federally declared disaster;
4. A family has been displaced due to a federally declared disaster.  The family must complete an application form within 90 days from the date of the disaster declaration to be considered for admission.
5. A Veteran is referred by the Veteran’s Administration for admission to the HUD Veteran’s Administration Supportive Housing (VASH) Program. See Chapter 19 and Appendix A.
6. A homeless individual is referred from Lutheran Social Services (LSS) for admission to the HCV Program through issuance of a Shelter Plus Care (SPC) voucher. See Appendix A.
7. Family Unification Program (FUP) Applicants for FUP Family and FUP Youth

**Targeted Funding [24 CFR 982.204(e)]**

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

**Regular HCV Funding**

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

**4-III.C. SELECTION METHOD**

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [982.202(d)].

PHA Policy

MPHA may admit a family who is displaced due to a federally declared disaster who are not on the waiting list or without considering the family’s position on the waiting list. The family must complete an application form within 90 days from the date of the disaster declaration to be considered for admission

**Local Preferences [24 CFR 982.207; HCV p. 4-16]**

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

PHA Policy

A. Homeless or living in substandard housing such as a unit without working plumbing, electricity or unsafe conditions or lacking a rental license if required by the City of Minneapolis.

B. Rent burdened by paying more than 50% of their income for rent and utilities for more than 90 days.

C. Residency preference: This preference is given to applicants whose head of household or spouse lives in the City of Minneapolis

D. Families who are victims of domestic abuse under MPHA’s VAWA Policy (See Appendix D in Table of Contents).

E. This preference is given to an applicant who is a veteran or member of the armed services. ("Veteran" means any person honorably discharged from the Armed Forces of the United States after serving for 181 consecutive days or more.)

F. Working Preference. Families with at least one adult who is employed at least 40 hours per week. This preference is automatically extended to elderly families or families whose head or spouse is receiving income based on their inability to work.

If the PHA is unable to provide a qualified referral, the PHA will accept written referrals from the Project Based owner to be placed on the waiting list. The Minneapolis Public Housing Authority will not deny a local preference, nor otherwise exclude or penalize a family in admission to the program, solely because the family resides in public housing.

Local Preferences will be aggregated using the following system:

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant’s place on the waiting list. Preferences A thru F each have a value of 1 point.

**Income Targeting Requirement [24 CFR 982.201(b)(2)]**

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the PHA’s fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income whichever number is higher. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low- income families admitted to the program that are “continuously assisted” under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

PHA Policy

The PHA will monitor progress in meeting the income targeting requirement throughout the fiscal year.  Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

**Order of Selection**

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery)[24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list it 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)].

PHA Policy

Families will be selected from the waiting list based on their preference, date and randomly assigned time.

Families that qualify for a specified category of program funding (targeted funding) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding. However, within any targeted funding category, applicants will be selected based their preference, date and randomly assigned time.

Documentation will be maintained by the PHA as to whether families on the list qualify for targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

**4-III.D. NOTIFICATION OF SELECTION**

When a family has been selected from the waiting list, the PHA must notify the family.

PHA Policy

The PHA 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 the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

All documents that must be provided at the interview, including information about what constitutes acceptable documentation

If a notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list.

**4-III.E. THE APPLICATION INTERVIEW**

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a PHA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2012-10].

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability.

PHA Policy

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

The head of household and all adult household members will be strongly encouraged to attend the interview together. 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 PHA.

The head of household or spouse/cohead must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, at the time of the interview, he/she will be required to provide within 10 business days.

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 PHA 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 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. MPHA will provide the applicant family with free interpreter service as requested. See Appendix B

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide free language assistance in accordance with the PHA’s LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time.Applicants who fail to attend two scheduled interviews without PHA approval, or an approved reasonable accommodation, will be denied assistance based on the family’s failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

**4-III.F. COMPLETING THE APPLICATION PROCESS**

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

PHA Policy

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 30 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

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

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

**Chapter 5**

**BRIEFINGS AND VOUCHER ISSUANCE**

**INTRODUCTION**

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

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

Part I: Briefings and Family Obligations. This part details the program’s requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family’s obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the PHA’s standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

**PART I: BRIEFINGS AND FAMILY OBLIGATIONS**

**5-I.A. OVERVIEW**

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

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

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

PHA Policy

Briefings may be conducted in group meetings.

Generally, all adult family members are required to attend the briefing. If any adult member is unable to attend, the PHA may waive this requirement as long as the head, spouse or co-head attends the briefing.

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

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA’s LEP plan (See Appendix B).

**Notification and Attendance**

PHA Policy

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

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

Applicants who fail to attend twoscheduled briefings, without PHA approval, will be denied assistance (see Chapter 3).

**Oral Briefing [24 CFR 982.301(a)]**

Each briefing must provide information on the following subjects:

* How the Housing Choice Voucher program works;
* Family and owner responsibilities;
* Where the family can lease a unit, including renting a unit inside or outside the PHA’s jurisdiction;
* An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
  + The PHA must inform the family of how portability may affect the family’s assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family’s assistance;

The advantages of areas that do not have a high concentration of low-income families; and

* For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

**Briefing Packet [24 CFR 982.301(b)]**

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

* The term of the voucher, and the PHA’s policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
* A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
* An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
* Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family’s assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family’s assistance.
* TheHUD-required tenancy addendum, which must be included in the lease.
* The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
* A statement of the PHA policy on providing information about families to prospective owners.
* The PHA subsidy standards including when and how exceptions are made.
* Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
* Minnesota Department of Health Pamphlet “Lead Poisons Kids”
* Participant Notice regarding Violence Against Women Act (VAWA)
* At the request of LEP Applicants/Participants, MPHA will provide free interpreter services.
* Toll free telephone number for the Domestic Violence Hotline and the Sexual AssaultHotline.
* Information on how to request a reasonable accommodation
* Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
* A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
* Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
* The family obligations under the program, including any obligations of a welfare-to-work family.
* The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
* PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

**5-I.C. FAMILY OBLIGATIONS**

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

**Time Frames for Reporting Changes Required By Family Obligations**

PHA Policy

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

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

**Family Obligations [24 CFR 982.551]**

The family obligations of the voucher are listed below.

* The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
* The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
* The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information and any other requested documentation.
* Any information supplied by the family must be true and complete.
* The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

PHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

* The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
* The family must not commit any serious violation of the lease.

PHA Policy

The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner’s notice to evict and police reports.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises and drug-related or criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

As regards VAWA, please see the VAWA policy (Appendix D)

* The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

PHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice, signed by the owner, to the PHA at the same time as the owner is notified

* The family must promptly give the PHA a copy of any owner eviction notice.
* The family must use the assisted unit for residence by the family. The unit must be the family’s only residence.
* The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing and provide supporting legal documentation of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any additional occupants of the unit.

PHA Policy

The request to add an adult family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

The PHA will approve the addition of a child to the household upon receipt of (1) a birth certificate; (2) legal proof of adoption; (3) a court order; (4) a delegation of powers of a parent under Minn. Stat. § 524.5.211 (2015); (5) written permission of the parent or other person having custody of the child; or (6) if none of the above documents are available, reliable, accurate and objective third-party verification of custody. The PHA will re-determine subsidy standard in accordance with the policies in this chapter.

* The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
* Members of the household may engage in legal profit making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses and owner approval.
* If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
* The family must not sublease the unit, assign the lease, or transfer the unit.

PHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

* The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
* The family must promptly notify the PHA when the family is absent from the unit.

PHA Policy

Notice is required under this provision when one or more family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA prior to the start of the extended absence. An authorized absence may not exceed 90 days.

* The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
* The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
* Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
* The Family guests or persons under the tenants control must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
* Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
* An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
* A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

**PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

**5-II.A.** **OVERVIEW**

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

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

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

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

* The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
* The subsidy standards must be consistent with space requirements under the housing quality standards.
* The subsidy standards must be applied consistently for all families of like size and composition.
* A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
* A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
* Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
* Unless a live-in aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

PHA Policy

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 6) will be allocated separate bedrooms.

Live-in aides will be allocated one separate bedroom.

Single person families will be allocated one bedroom.

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

**Voucher Size Persons in Household**

**Minimum Maximum**

0 Bedroom 1 2

1 Bedroom 1 4

2 Bedrooms 2 6

3 Bedrooms 3 8

4 Bedrooms 5 10

5 Bedrooms 7 12

6 Bedrooms 10 14

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

A household add-on is not a member of the original family or if an original member has been designated as permanently absent, and is not a dependent of the voucher holder. A household adult add-on will not increase the voucher size for which a voucher holder qualifies without the household add-on. If a voucher holder voluntarily gives up the voucher rental subsidy, the household add-on does not have any rights to the voucher.

The composition of the household must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or custody of a child. The PHA will approve the addition of a child to the household upon receipt of (1) a birth certificate; (2) legal proof of adoption; (3) a court order; (4) a delegation of powers of a parent under Minn. Stat. 524.5.211; (5) Notarized written permission of the parent of other person having custody of the child; or (6) if none of the above documents are available, reliable, accurate and objective third-party verification of custody.

Other persons may not be added to the household without prior written approval of the owner.

**5-II.C.** **EXCEPTIONS TO SUBSIDY STANDARDS**

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

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

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

PHA Policy

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

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a licensed physician, unless the disability and the disability–related request for accommodation is readily apparent or otherwise known.

The PHA will notify the family of its determination within 30 calendar days of receiving the family’s request. If a participant family’s request is denied, the notice will inform the family of their right to request an informal review.

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

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

Reasonable Accommodations for an increase in voucher size due to the need for medical equipment, please refer to 6-III.C.

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

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

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

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

PHA Policy

Voucher issuance will be scheduled to eligible applicants following attendance at the mandatory briefing.

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

PHA Policy

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

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

**5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS**

**Voucher Term [24 CFR 982.303]**

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

PHA Policy

The initial voucher term will be 90 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 90-day period unless the PHA grants an extension.

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

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

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

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

PHA Policy

The PHA will approve one 30-day extension upon written request from the family and documentation of attempts to locate a suitable unit.

The PHA will approve additional 30 day extensions, not to exceed 180 days and only in the following circumstance:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family’s control, as determined by the PHA. Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

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

Whether family size or other special circumstances make it difficult to find a suitable unit, such as VAWA protections or participation in the VASH or Designated Vouchers for the Disabled program, make finding a unit difficult

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

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

The PHA will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family notice of its decision.

MPHA will comply with its VAWA policies. Refer to Appendix D.

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

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

**Expiration of Voucher Term**

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

PHA Policy

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

Upon expiration of the voucher term or any extension, the PHA will notify the family in writing, to the address on file, that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

**CHAPTER 6: INCOME AND SUBSIDY DETERMINATIONS**

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

**INTRODUCTION**

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

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

**PART I: ANNUAL INCOME**

**6-I.A.** **OVERVIEW**

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

5.609 Annual income.

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

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

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

(3) Which are not specifically excluded in paragraph [5.609(c)].

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

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

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

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

**6-I.B.** **HOUSEHOLD COMPOSITION AND INCOME**

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

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

PHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. A household add-on is not a member of the original family and is not a dependent of the voucher holder. A household add-on will not increase the voucher size for which a voucher holder qualifies without the household add-on. If a voucher holder voluntarily gives up the voucher rental subsidy, the household add-on does not have any rights to the voucher. Exceptions to this general policy are discussed below.

***Absent Students***

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member as long as verifiable documentation is submitted to the PHA as requested.  Examples of accepted verification included proof of out of state tuition and on campus residency.

***Absences Due to Placement in Foster Care***

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

PHA Policy

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

***Absent Head, or Spouse***

PHA Policy

If the head or spouse is absent from the unit more than 90 consecutive days due to out of area employment, s/he will continue to be considered a family member and his or her income will continue to be counted.

**Family Members Permanently Confined for Medical Reasons**

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

PHA Policy

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

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

**Joint Custody of Dependents**

PHA Policy

When more than one participant family is claiming the same dependents as family members, the family with physical custody of the child or children at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, school records, receipt of benefits on behalf of the child

**Caretakers for a Child**

PHA Policy

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

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

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

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

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

(5) An adult would be considered a family member as a result of any of the following: (1) a court order; (2) a delegation of powers of a parent under Minn. Stat. § 524.5-211 (2009); (3) written permission of the parent of other person having custody of the child; or (4) if none of the above documents are available, reliable, accurate and objective third-party verification of custody of the child. All adult additions to the household must meet eligibility guidelines as outlined in Chapter 3.

**6-I.C.** **ANTICIPATING ANNUAL INCOME**

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

**Basis of Annual Income Projection**

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

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

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

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

PHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the PHA will make every effort to obtain at least 6 current consecutive pay stubs.

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

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the PHA determines additional information is needed.

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

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family’s anticipated income.

***Known Changes in Income***

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA’s policy in Chapter 11 does not require interim reexaminations for other types of changes.

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

**Projecting Income**

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

**6-I.D.** **EARNED INCOME**

**Types of Earned Income Included in Annual Income**

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

PHA Policy

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

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

**Types of Earned Income Not Counted in Annual Income**

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

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

PHA Policy

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

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

***Certain Earned Income of Full-Time Students.*** Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

**MTW Policy—Certain Earned Income of Full-Time Students**

Earnings for each full-time student 18 years old or older (except head, spouse, or co-head) are not counted. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program.

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

***Income Earned under Certain Federal Programs.*** Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

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

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

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

PHA Policy

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

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

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

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

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

PHA Policy

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

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

***Earned Income Disallowance***. The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

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

**The Housing Opportunity through Modernization Act (HOTMA) eliminates existing Earned Income Disregard (EID). Participants currently enrolled in EID will complete the terms of their respective EID programs based on their enrollment start date.**

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

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

**Business Expenses**

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

PHA Policy

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

**Business Expansion**

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

PHA Policy

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

**Capital Indebtedness**

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

PHA Policy

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

**Negative Business Income**

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

**Withdrawal of Cash or Assets from a Business**

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

PHA Policy

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

**Co-owned Businesses**

PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. 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 PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

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

Optional policies for family self-certification of assets are found in Chapter 7.

**General Policies**

***Income from Assets***

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

PHA Policy

The PHA will not require documentation of any asset under $5,000.  However, if provided will enter the asset as shown in the following policies.

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

**MTW Policy—Income from Assets**

When an MTW household’s total market asset value is below $50,000, MPHA will allow the family to self-certify assets and will exclude all income from those assets.

When an MTW household’s total market asset value is at or above $50,000, MPHA will verify all household assets and will use an imputed amount to determine the income from those assets.

Additional information regarding the valuation of the assets and imputing the income are found under the applicable headings below.

***Valuing Assets***

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

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

PHA Policy

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

**MTW Policy—Valuing Assets**

For MTW households, MPHA will use the “market value” of an asset when determining asset value and corresponding income.

***Lump-Sum Receipts***

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

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

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

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

PHA Policy

The PHA will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually, in December of each year. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

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

**MTW Policy—Imputing Income from Assets**

For MTW households, when a household’s total market asset value is at or above $50,000, MPHA will use the imputed asset income in the calculation of annual income. MPHA will multiply the household’s total market asset value by the MPHA established passbook savings rate to determine imputed asset income.

***Determining Actual Anticipated Income from Assets***

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

**MTW Policy—Determining Actual Anticipated Income from Assets**

As described in “MTW Policy—Determining Income from Assets,” MPHA will not consider actual anticipated asset income when calculating asset income.

***Withdrawal of Cash or Liquidation of Investments***

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

***Jointly Owned Assets***

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

PHA Policy

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

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

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

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

*Minimum Threshold*

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

PHA Policy

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

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

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

*Separation or Divorce*

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

PHA Policy

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

*Foreclosure or Bankruptcy*

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

*Family Declaration*

PHA Policy

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

**Types of Assets**

**MTW Policy—** **Types of Assets**

For each asset type below, when the total market value of all household assets is at or above $50,000, MPHA will use the imputed asset income in the calculation of annual income.

***Checking and Savings Accounts***

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

PHA Policy

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

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

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

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

PHA Policy

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

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

***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 which the family lives [HCV GB, p. 5-25]
* Equity in real property when a family member’s main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
* Interests in Indian Trust lands [24 CFR 5.603(b)]
* Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

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

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

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

PHA Policy

In the case of capital investments owned jointly with others not living in a family’s unit, a prorated share of the property’s cash value will be counted as an asset unless the PHA 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 generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

*Revocable Trusts*

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

*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)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

***Retirement Accounts***

*Company Retirement/Pension Accounts*

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

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

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

*IRA, Keogh, and Similar Retirement Savings Accounts*

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

***Personal Property***

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

PHA Policy

In determining the value of personal property held as an investment, the PHA will use the family’s estimate of the value. The PHA 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.

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

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

PHA Policy

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

***Life Insurance***

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

**6-I.H.** **PERIODIC PAYMENTS**

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

**Periodic Payments Included in Annual Income**

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

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

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

PHA Policy

When a delayed-start payment (excluding delayed start of periodic Social Security, VA or SSI which are not counted as income) is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.

**Treatment of Overpayment Deductions from Social Security Benefits**

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

**Periodic Payments Excluded from Annual Income**

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

PHA Policy

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

Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(C)(14)].

Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

**6-I.I.** **PAYMENTS IN LIEU OF EARNINGS**

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

**6-I.J.** **WELFARE ASSISTANCE**

**Overview**

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

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

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

***Covered Families***

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

***Imputed Income***

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

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

***Offsets***

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

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

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

**Alimony and Child Support**

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

PHA Policy

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that the payments are not being made. If the family declares that it receives irregular payments that differ from the court awarded amounts, the PHA will count as income an average of the payments received over a twelve month period.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award, not required to take independent legal action to obtain collection and will be required to provide notarized statement declaring support payments. If no payments are received for 60 consecutive days, alimony and child support payments will not be counted as annual income.

**Regular Contributions or Gifts**

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

PHA Policy

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

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

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

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

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

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

* They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
* They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based 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 and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

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

* *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
* *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
* *Tuition and fees* are defined in the same manner in which the Department of Education

defines *tuition and fees* [Notice PIH 2015-21].

- This is the amount of tuition and required fees covering a full academic year most

frequently charged to students.

- The amount represents what a typical student would be charged and may not be the same

for all students at an institution.

- If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for

an academic year is used to estimate average tuition.

- Required fees include all fixed-sum charges that are required of a large proportion of all

students. Examples include, but are not limited to, writing and science lab fees and fees

specific to the student’s major or program (i.e., nursing program).

- Expenses related to attending an institution of higher education must **not** be included as

tuition. Examples include, but are not limited to, room and board, books, supplies, meal

plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

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

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

* Students residing with parents who are seeking or receiving Section 8 assistance
* Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
* Students who are over 23 **AND** have at least one dependent child, as defined in Section 3‑II.E
* Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

**6-I.M.** **ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

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

* 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)] FR Notice 5/20/14. HUD publishes an updated list of these exclusions periodically. It includes:

1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
2. Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

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

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

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

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

(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

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

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

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

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

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

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

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

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

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

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See See Section 6-I.L. for exceptions.)

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

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

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

**PART II: ADJUSTED INCOME**

**6-II.A.** **INTRODUCTION**

**Overview**

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

PHA Policy

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $525 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.

**MTW Policy—Adjusted Income Overview**

Effective January 1, 2014, MTW households are eligible for two deductions from gross income—the Working Family Incentive and an Elderly/Disabled Deduction of $750.

**MTW Policy - Working Family Incentive (WFI)**

Through the Moving to Work Demonstration Program **M**PHA has implemented a Working Family Incentive in an effort to increase the income and asset level of families in which any adult member is employed. This deduction would provide the Working Family with available money to support work related costs, including but not limited to transportation, uniforms, and health insurance premiums.

Working Family is defined as any family who has earned income and at least one minor child. MPHA will calculate a fifteen (15%) percent deduction from the family’s gross annual earned income.

**Anticipating Expenses**

PHA Policy

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

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

**6-II.B.** **DEPENDENT DEDUCTION**

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

**MTW Policy—Dependent Deduction**

MTW households are not eligible for the dependent deduction.

**6-II.C.** **ELDERLY OR DISABLED FAMILY DEDUCTION**

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

**MTW Policy—** **Elderly or Disabled Family Deduction**

MTW elderly or disabled households will receive a single deduction of $750

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

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

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

**MTW Policy—** **Medical Expense Deduction**

MTW households are not eligible for the medical expenses deduction.

**Definition of *Medical Expenses***

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

PHA Policy

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

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

PHA Policy is to provide medical deductions to assistance animals that are assumed to be healthy and able to provide the needed services and assistance. Medical deductions for assistance animals include: Food, grooming necessary for the health of the animal and regular health screenings and immunizations. Request for additional medical deductions must be submitted in writing. The PHA will review and make a determination of approval on a case by case basis.

**Spend down**

Individuals who, except for excess income, would qualify for MA (also known as Medicaid) can qualify for MA through a “spend down.” Under a spend down, an individual reduces his or her income by incurring medical bills in amounts that are equal to or greater than the amount by which his or her income exceeds the relevant spend down standard for the spend down period (six-month or one-month). Unpaid medical bills incurred before the time of application for MA can be used to meet the spend-down requirement.

There are two types of spend-downs. Under a six-month spend-down, an individual can become eligible for MA for up to six months, beginning on the date his or her total six-month spend down obligation is met. Under a one-month spend-down, individuals spend down their income during a month in order to become eligible for MA for the remainder of that month.

PHA Policy

To be eligible for an annual medical expense deduction through spend-down, MPHA requires the family to provide a 6-month history from local welfare department that documents that the participant has met his or her spend-down requirement. If a six month history is not available then the family must provide the PHA with a monthly statement, on a monthly basis for six months, documenting that the spend-down has been made.

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

PHA Policy

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

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

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

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

**MTW Policy—** **Disability Assistance Expense Deduction**

MTW households are not eligible for the disability expense deduction.

**Earned Income Limit on the Disability Assistance Expense Deduction**

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

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

PHA Policy

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

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ 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 PHAs to further define and describe auxiliary apparatus [VG, p. 30].

***Eligible Auxiliary Apparatus***

PHA Policy

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

***Eligible Attendant Care***

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

PHA Policy

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

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

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

***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.

PHA Policy

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

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

PHA Policy

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

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

**6-II.F.** **CHILD CARE EXPENSE DEDUCTION**

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

**MTW Policy—** **Child Care Expense Deduction**

MTW households are not eligible for the child care expense deduction.

**Clarifying the Meaning of *Child* for This Deduction**

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

**Qualifying for the Deduction**

***Determining Who Is Enabled to Pursue an Eligible Activity***

PHA Policy

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

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

***Seeking Work***

PHA Policy

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

***Furthering Education***

PHA Policy

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

***Being Gainfully Employed***

PHA Policy

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

**Earned Income Limit on Child Care Expense Deduction**

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

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

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

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

PHA Policy

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

**Eligible Child Care Expenses**

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

***Allowable Child Care Activities***

PHA Policy

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

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

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

***Necessary and Reasonable Costs***

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

PHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class. Based on the family’s annual income, reasonable annual child care expenses of $2500 or less may not require supporting documentation.

Supportive documentation may be required if the child care provider is an individual (including an unassisted family member), in which case the family must provide receipts or other written verification from the person who receives the payments and must provide the following information about the provider: their name; their address; their telephone number; their social security number; the names and ages of the children cared for; the rate of pay, including school and vacation periods. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

The PHA will use the schedule of child care costs from the local welfare agency, and, comparing the two, will use the lesser of the scheduled child care costs of the local welfare agency or the individual provider.

**PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY**

**6-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 is established by the PHA

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

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

**MTW Rent Reform Policy—Flat Subsidy Approach**

MPHA will determine tenant rent for MTW Rent Reform households by using a flat, subsidy-based approach. MPHA will provide a flat subsidy for all households based upon the household’s verified and calculated income. The household will be responsible for all remaining rent and all tenant-paid utility costs. If the contract rent is less than the flat subsidy, the MPHA-provided subsidy will be equal to the contract rent minus the minimum rent. When the size of the unit the family occupies differs from the size of the unit the family is eligible for, based on MPHA subsidy standards, MPHA will determine the subsidy amount by using the smaller of the actual unit size and the unit size dictated by the subsidy standards.

MPHA will establish two subsidy tables—one for households responsible for paying heat and the second for all other households. Revisions to the subsidy tables may be effective on an MPHA-determined effective date or at the family’s next regular reexamination. MPHA will make this determination at the time the tables are revised.

MPHA may periodically revise the subsidy tables as needed to reflect current housing conditions. Revisions may include, but are not limited to, changes in the size of each income band, the flat subsidy attached to each income band, and/or the utility allowance adjustments included in the subsidy table.

**MTW Policy—Reasonable Accommodation for Additional Subsidy**

MTW households may request, as a reasonable accommodation for an individual with disabilities, a higher subsidy. When an accessible unit is needed for an individual with disabilities and the rent is reasonable, MPHA may increase the subsidy by up to 10% of the flat subsidy amount or a maximum of.120% of the Fair Market Rent.

**Example**

Assume a household meets the following criteria and that the contract rent is deemed reasonable.

* Subsidy = $600
* Contract Rent = $1100

MPHA will determine the increase in the subsidy as follows.

* Maximum Additional Subsidy = 10% multiplied by $600
* Revised Subsidy = $600 plus $60 = $660

***Welfare Rent [24 CFR 5.628]***

Welfare rent does not apply in this locality.

***Minimum Rent [24 CFR 5.630]***

The minimum rent for the following programs is $0:

* + Mod/Rehab and Mod/Rehab SRO
  + Continuum of Care
  + Project Based Units

The minimum rent for the following programs is $50

* + Preservation Vouchers
  + VASH
  + Family Unification Program

The minimum rent for the remaining MTW HCV Programs is $75

**MTW Policy—Minimum Rent**

All MTW households paying minimum rent will be referred to as “minimum rent” households. Likewise, the MTW policies described in the section will be referred to as “minimum rent” policies. MPHA may periodically revise the minimum rent.

Under certain circumstances, MTW households will be permitted to request a financial hardship exemption from the minimum rent policies. Hardship request policies are found in “MTW Policy—Minimum Rent and Interim Recertification Hardship Policy” 6-III.B

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

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

**MTW Policy—Family Share**

MTW households will be responsible for all rent and tenant-paid utility costs not covered by the MPHA’s flat subsidy. MPHA will not approve a Request For Tenancy Approval (RFTA) if a participant’s rent portion exceeds 50% of their monthly gross income, without Supervisory review and approval. MPHA retains the right to approve or deny any Request For Tenancy Approval

**PHA Subsidy [24 CFR 982.505(b)]**

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

**MTW Policy—PHA Subsidy**

MTW households will receive a flat subsidy from MPHA. The subsidy will be the lower of the contract rent and the flat subsidy associated with the household’s income band.

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

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

The PHA may make all utility reimbursement payments to qualifying families on a monthly

basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or

less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

PHA Policy

The PHA will issue all utility reimbursements monthly.

**MTW Policy — Utility Reimbursements**

MTW households will not receive utility reimbursements from MPHA. MPHA will create two flat subsidy tables — one for households responsible for paying heat and the second for all other households. The table for households paying heat will include an adjustment based on average heat costs across fuel type. MPHA will periodically review utility costs and revise the subsidy tables, as needed.

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

**Overview**

If the PHA establishes a minimum rent greater than zero, the PHA 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 PHA determines that a hardship exists, the family share is the highest of the remaining components of the family’s calculated TTP.

**MTW Policy—Minimum Rent Hardship Policy**

MTW families may request a hardship exemption from the minimum rent policies. Households must submit the request for hardship from minimum rent and required supporting documentation within 15 days of the date of the rent change notice. The hardship must be the result of one of the following:

* The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
* The income of the family has decreased because of a significant change in circumstances, including loss of employment;
* The death of a household member has occurred affecting a major source of income for the family; and/or,
* Other circumstances determined by MPHA.

MPHA will not grant hardship exemptions if the hardship is considered temporary, defined as lasting less than 90 days. An approved hardship exemption from paying minimum rent is limited to 12 months. For families with approved hardship exemptions, MPHA will calculate the rent using 30% of the family’s adjusted monthly income.

After the exemption has expired, the household’s subsidy will be determined using MTW minimum rent policies. Families may not be permitted to request an additional hardship. For instance, if a household requests a hardship exemption during the initial twelve months of being subject to minimum rent policies and is approved for a full twelve-month hardship, upon expiration of the hardship the household’s subsidy level will immediately be determined using the appropriate income band.

MPHA’s Hardship Review Committee will review requests and render a decision within 10 business days of receipt of the Minimum Rent Hardship Request Form and all supporting documentation. MPHA will suspend the minimum rent beginning the month following the approval of the request.

**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.

PHA Policy

If a family requests a financial hardship exemption, the PHA will suspend the minimum rent requirement beginning the month following the family’s request for a hardship exemption until the PHA determines whether there is a qualifying financial hardship and whether such hardship is temporary or long term.

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.

PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family’s inability 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.

PHA Policy

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

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

PHA Policy

MPHA will reduce the calculated rent for a participant who is away from the unit for more than 30 days.

**Implementation of Hardship Exemption**

***Determination of Hardship***

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

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

PHA Policy

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Example: Impact of Minimum Rent Exemption**  Assume the PHA has established a minimum rent of $75. | | | |
| **Family Share – No Hardship** | | **Family Share – With Hardship** | |
| $0  $15  N/A  $75 | 30% of monthly adjusted income  10% of monthly gross income  Welfare rent  Minimum rent | $0  $15  N/A  $75 | 30% of monthly adjusted income  10% of monthly gross income  Welfare rent  Minimum rent |
| Minimum rent applies.  TTP = $75 | | Hardship exemption granted.  TTP = $15 | |

PHA Policy

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

The PHA will make the determination of hardship within 21 calendar days.

***No Financial Hardship***

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

PHA Policy

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

***Temporary Hardship***

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

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

PHA Policy

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

***Long-Term Hardship***

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

PHA Policy

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

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

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

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

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

**Overview**

The PHA’s schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA’s payment standards. The establishment and revision of the PHA’s payment standard schedule are covered in Chapter 16.

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

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

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

**MTW Policy—Payment Standards**

MTW households will be responsible for all rental and tenant-paid utility costs not covered by MPHA’s flat subsidy, regardless of whether the unit is above or below the agency’s payment standards. MTW households will not be subject to any non-MTW payment standard policies.

Revisions to the subsidy tables may be effective on an MPHA-determined effective date. The revised subsidy tables will be effective with the families annual re-examination or at time of Unit Transfer.

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

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

**Changes in Payment Standards**

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

***Decreases***

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

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

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

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

***Increases***

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

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next 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 PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

Medical Equipment – Although the PHA may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the PHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family’s next annual recertification. The PHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

**6-III.D.** **APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

**Overview**

A PHA-established utility allowance schedule is used in determining family share and PHA 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 PHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the PHA’s subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

**MTW Policy—Applying Utility Allowances**

MPHA will create two flat subsidy tables— one for households responsible for paying heat and second for all other households. The table for households paying heat will include an adjustment based on average heat costs across fuel type. No other utility allowances will be provided for MTW families.

**Utility Allowance Revisions**

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

PHA Policy

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

**MTW Policy—Revised Utility Allowances**

MPHA may periodically revise the subsidy tables to adjust for current utility costs. Revisions to the subsidy tables may be effective on an MPHA-determined effective date or at the family’s next regular reexamination. MPHA will make this determination at the time the tables are revised.

**6-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 PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

**MTW Policy—** **Prorated Assistance for Mixed Families**

A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. MPHA will deduct 10% from the flat subsidy amount (i.e. the lower of the flat subsidy or the contract rent) provided to mixed families.

**EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS**

**24 CFR 5.609**

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

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

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

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

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

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

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

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

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

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

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

(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]](#footnote-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)

**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).

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

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

**EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS**

**24 CFR 5.609**

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

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

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

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

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

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

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

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

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

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

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

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

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

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

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

(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 PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M for a list of benefits that qualify for this exclusion.]

**EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS**

**24 CFR 5.603(b) Net Family Assets**

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

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

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received 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.

(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 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES**

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

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

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

*Baseline income.* The annual income

immediately prior to implementation of the

disallowance described in paragraph (c)(1) of

this section of a person with disabilities (who is a member of a qualified family).

*Disallowance*. Exclusion from annual income.

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

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

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

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

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

***(c)*** *Disallowance of increase in annual income—*

(1) *Initial twelve month exclusion*. During the twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the 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) is limited to a lifetime 24-month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), 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 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION**

**24 CFR 5.615**

**Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

***(a)*** *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

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

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

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

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

*Specified welfare benefit reduction.*

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

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

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

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

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

***(c)*** *Imputed welfare income.*

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

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

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

(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

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

***(d)*** *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

***(e)*** *PHA relation with welfare agency.*

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

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

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

**Chapter 7**

**VERIFICATION**

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

**INTRODUCTION**

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

The PHA will follow the verification guidance provided by HUD in PIH Notice 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related family information Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

**PART I. GENERAL VERIFICATION REQUIREMENTS**

**7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

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

**Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance.

**Penalties for Failing to Consent [24 CFR 5.232]**

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

**7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

**HUD’s Verification Hierarchy**

HUD mandates the use of the EIV system and offers administrative guidance on the use of the other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. HUD allows the PHA to rely on determination of income conducted for other federal means-tested public assistance programs. The PHA is not required to maintain records of excluded income. (HOTMA)

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

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

Each of the verification methods is discussed in subsequent sections below.

**Requirements for Acceptable Documents**

PHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to the PHA. 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 made in a format acceptable to the PHA and must be signed in the presence of a PHA representative or PHA notary public.

**File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family’s file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

PHA Policy

The PHA will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing adjusted income

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2010-19].

**7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

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

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

See Chapter 6 for the PHA’s policy on the use of UIV/EIV to project annual income.

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

PHAs must use HUD’s EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD’s EIV system.

***EIV Income Reports***

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

PHA Policy

The PHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income 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, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

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

When the PHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

***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 2012-10].

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

PHA Policy

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

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

**7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD’s current verification hierarchy defines two types of written third-party verification. The more preferable form, “written third-party verification,” consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a “written third-party verification form.” This is a standardized form used to collect information from a third party.

**Written Third-Party Verification [Notice PIH 2010-19]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

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

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

PHA Policy

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will request pay stubs covering the 60-day period prior to the PHA’s request.

**Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD’s position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

PHA Policy

The PHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

**Oral Third-Party Verification [Notice PIH 2010-19]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

PHA Policy

In collecting third-party oral verification, PHA staff will record in the family’s file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

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

**When Third-Party Verification is Not Required [Notice PIH 2010-19]**

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.

***Primary Documents***

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

***Imputed Assets***

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB,p. 5-28].

PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

***Value of Assets and Asset Income [24 CFR 982.516(a)]***

For families with net assets totaling $5,000 or less, the PHA may accept the family’s declaration

of asset value and anticipated asset income. However, the PHA is required to obtain third-party

verification of all assets regardless of the amount during the intake process and at least every

three years thereafter.

PHA Policy

For families with net assets totaling $5,000 or less, the PHA will accept the family’s selfcertification of the value of family assets and anticipated asset income when applicable.

**7-I.E. SELF-CERTIFICATION**

Self-certification, or “tenant declaration,” is used as a last resort when the PHA is unable to obtain third-party verification.

When the PHA relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

PHA Policy

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

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

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

**Part II. Verifying FAMILY INFORMATION**

**7-II.A. VERIFICATION OF LEGAL IDENTITY**

PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

|  |  |
| --- | --- |
| **Verification of Legal Identity for Adults** | **Verification of Legal Identity for Children** |
| Certificate of birth, naturalization papers  Church issued baptismal certificate  Picture identification card  U.S. military discharge (DD 214)  Current U.S. passport  Employer identification card | Certificate of birth  Adoption papers  Custody agreement (through the courts)  Health and Human Services ID  Delegation of Parental Authority (D.O.P.A.)  Verifiable school records |

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing him or herself to be a participant. .

**7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2012-10]**

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

An original SSN card issued by the Social Security Administration (SSA)

An original SSA-issued document, which contains the name and SSN of the individual

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

PHA Policy

The PHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant’s failure to comply was due to circumstances that were beyond the applicant’s control and could not have been reasonably foreseen.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual’s assistance.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant’s failure to comply was due to unforeseen circumstances and was outside of the participant’s control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

PHA Policy

The PHA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual’s verification status is classified as “verified,” the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual’s SSN.

PHA Policy

Once an individual’s status is classified as “verified” in HUD’s EIV system, the PHA will remove and destroy copies of documentation accepted as evidence of social security numbers.

**7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

**7-II.D. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family’s eligibility and level of assistance.Certification by the head of household normally is sufficient verification of family relationships.

**Marriage**

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

**Separation or Divorce**

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency may be accepted.

**Absence of Adult Member**

PHA Policy

If the Head of Household certifies that an adult member of the household will absent from the household or unit for more than 90 continuous days, the unit will not be considered their principal place of residence and that adult member will be removed from the program unless the absence is due to medical reasons.

If the Head or Co-head of Household member must leave the household for more than 90 continuous days, the unit will not be considered to be their principle place of residence and that member will be removed from the program unless the absence is due to medical reasons.

The sole member of a household cannot be absent from the unit for more than 90 days in a 12 month period. If the sole member must leave the household for more than 90 days, the unit will not be considered to be their principle place of residence and they will be terminated from the program unless the absence is due to medical reasons.

MPHA will consider an adult to be temporarily absent and not permanently absent from the household, if the adult member, head, or co-head must leave the household to go to the hospital or nursing home facility, or for employment relocation purposes. The MPHA will require families to provide verification of need for employment or medical absence from the unit for such employment or medical reason. If the medical source informs MPHA that adult member will be permanently confined to a nursing home or other residential facility, the adult member will be considered permanently absent. The length of stay cannot exceed 90 days before MPHA will consider the absence permanent.

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill). If the family is unable to provide such documentation, a statement from the current owner certifying that the person is no longer in the residence will serve as sufficient alternative form of verification.

**Foster Children and Foster Adults**

PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**7-II.E. VERIFICATION OF STUDENT STATUS**

PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family reports child care expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education.*

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

PHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student’s income eligibility, the PHA will then proceed to verify either the student’s parents’ income eligibility (see Section 7-III.J) or the student’s independence from his/her parents (see below).

***Independent Student***

PHA Policy

The PHA will verify a student’s independence from his/her parents to determine that the student’s parents’ income is not relevant for determining the student’s eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education’s definition of *independent student* (see Section 3-II.E)

Reviewing 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.

**7-II.F. DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person’s disability [24 CFR 100.202(c)]. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant’s medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services’ website at. http://www.hhs.gov/ocr/privacy

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

* Inquiry into an applicant’s ability to meet the requirements of ownership or tenancy
* Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
* Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
* Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
* Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

**Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

PHA Policy

For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD’s EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

**Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran’s disability benefits, worker’s compensation, or other non-SSA benefits based on the individual’s claimed disability are not sufficient verification that the individual meets HUD’s definition of disability in 24 CFR 5.603.

PHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

**7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

**Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

**U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

PHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual’s declaration may not be accurate.

**Eligible Immigrants**

***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

***PHA Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

**7-II.H.VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

Victims of Domestic Violence:

See Appendix D in Table of Content

Living in Substandard Housing:

Families who claim to be living in a substandard housing unit: Written verification by a government agency

"Homeless" Families: Written certification by a public or private facility providing shelter, the police, or a social services agency.

Rent Burden -Paying more than 50% of income for rent.

Families will be required to verify their income, the amount of rent and utilities they have been obligated to pay for the past 90 days:

Families must furnish copies of rental receipts/the lease/canceled checks/money orders.

In cases where the family pays rent to a co-renter or sublets the unit, the PHA requires a certification from the person who receives the money from the applicant, and verification from the owner that the family resides in the unit.

To verify the amount due to amortize the purchase price of a manufactured home, copies of the most recent payment receipts, canceled checks or money order receipts, and a copy of the current purchase agreement.

The PHA can use either the actual cost of utilities or the PHA's Section 8 Existing utility allowance schedule. To verify the amount the family actually paid for utilities not included in the rent (if the Section 8 Utility Allowance Schedule is not used):

Copies of bills showing previous utility payments

Written verification of consumption costs directly from the utility or service supplier.

Residency

For families who live, work or have been hired to work in the jurisdiction of the PHA.

In order to verify that an applicant is a resident, the PHA will require one of the following documents: utility bills, employer or agency records, driver’s licenses, or voter’s registration records.

Veterans

This preference is available to current member of the U.S. Military Armed Forces, veterans, or surviving spouses of veterans: The PHA will require U.S. government documents which indicate that the applicant qualifies under the above definition.

Working preference

This preference is given to families with a least one adult who is employed at least 40 hours per week. The PHA will require 3rd Party Verification of employment.

**PART III. Verifying Income AND ASSETS**

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

**7-III.A. EARNED INCOME**

**Tips**

PHA Policy

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

**Wages**

PHA Policy

For wages other than tips, the family must provide originals pay stubs for the last 60 days.

**7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

PHA Policy

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

An audited financial statement for the previous fiscal year if an audit was conducted. MPHA will require any person who is unable to provide such a statement to submit a record of income and expenses

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The PHA will require any person who is unable to provide such a statement to submit a record of income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

**7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

**Social Security/SSI Benefits**

PHA Policy

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will 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](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD UIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will 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](http://www.ssa.gov). Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

**7-III.D. SPOUSAL MAINTENANCE OR CHILD SUPPORT**

PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

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

If payments are made through a state or local entity, the PHA will request a current record of payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received

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

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

**7-III.E. ASSETS AND INCOME FROM ASSETS**

**MTW Policy – Verification of Asset Income**

When an MTW household’s total market asset value is below $50,000, MPHA will use self-certification to verify the market value of the asset.

When an MTW household’s total market asset value is at or above $50,000, MPHA will use HUD-prescribed verification requirement to verify the market value of the asset.

**Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

**7-III.F. NET INCOME FROM RENTAL PROPERTY**

PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

**7-III.G. RETIREMENT ACCOUNTS**

PHA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member’s retirement status.

*Before* retirement, the PHA 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 PHA 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 PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

**7-III.H. INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family’s signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).PHA Policy

The PHA will accept the family’s self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

**7-III.I. ZERO ANNUAL INCOME STATUS**

PHA Policy

The PHA will check EIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

**7-III.J. STUDENT FINANCIAL ASSISTANCE**

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2).  Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

PHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the PHA will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, the PHA will request written verification from the institution of higher education regarding the student’s tuition amount.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

**7-III.K. parental income of students subject to eligibility restrictions**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student’s parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA 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.

PHA Policy

If the PHA is required to determine the income eligibility of a student’s parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The PHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the PHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA’s request or within any extended timeframe approved by the PHA.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

**PART IV. Verifying MANDATORY DEDUCTIONS**

**7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions.No further verifications are required.

**Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction.The PHA will verify that:

* Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
* Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

**Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction.The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

**7-IV.B. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

PHA Policy

The PHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the PHA must verify that:

* The household is eligible for the deduction.
* The costs to be deducted are qualified medical expenses.
* The expenses are not paid for or reimbursed by any other source.
* Costs incurred in past years are counted only once.

**Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

**Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA’s policy on what counts as a medical expense.

**Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

**Expenses Incurred in Past Years**

PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family’s annual income in past years

**7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

***Attendant Care***

PHA Policy

The PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

***Auxiliary Apparatus***

PHA Policy

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the PHA must verify that:

* The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
* The expense permits a family member, or members, to work (as described in 6-II.E.).
* The expense is not reimbursed from another source (as described in 6-II.E.).

**Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities.The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

**Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

PHA Policy

The PHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

**Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

**7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

* The child is eligible for care (12 or younger)..
* The costs claimed are not reimbursed.
* The costs enable a family member to work, actively seek work, or further their education.
* The costs are for an allowable type of child care.
* The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13(See 7-II.C.).

**Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

PHA Policy

The child care provider will be asked to certify that, to the best of the provider’s knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

**Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

PHA Policy

*Information to be gathered*

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

*Seeking Work*

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request verification from the agency of the member’s job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

*Furthering Education*

The PHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

*Gainful Employment*

The PHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

**Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

PHA Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household’s declaration of family members who are expected to reside in the unit.

**Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

PHA Policy

The actual costs the family incurs will be compared with the PHA’s established standards of reasonableness based on the schedule of child care costs from the local welfare agency.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS  
FOR NONCITIZENS[HCV GB, pp. 5-9 and 5-10]**

|  |  |
| --- | --- |
| * **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. * Except for persons 62 or older, all noncitizens must sign a verification consent form * Additional documents are required based upon the person's status. | |
| **Elderly Noncitizens**   * A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits. | |
| **All other Noncitizens**   * Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below. | |
| * Form I-551 Alien Registration Receipt Card (for permanent resident aliens) * Form I-94 Arrival-Departure Record annotated with one of the following: * “Admitted as a Refugee Pursuant to Section 207” * “Section 208” or “Asylum” * “Section 243(h)” or “Deportation stayed by Attorney General” * “Paroled Pursuant to Section 221 (d)(5) of the USCIS” | * Form I-94 Arrival-Departure Record with no annotation accompanied by: * A final court decision granting asylum (but only if no appeal is taken); * A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); * A court decision granting withholding of deportation; or * A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90). |
| * Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. | Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”. |
| * A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or * Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register* | |

**Chapter 8**

**HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS**

[24 CFR 982 Subpart I and 24 CFR 982.507]

**INTRODUCTION**

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually. See Section 8-II.G for further details.

HUD also requires PHAs to determine rent for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards.This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process.This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations.This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

**PART I: PHYSICAL STANDARDS**

**8.I.A. GENERAL HUD REQUIREMENTS**

**HUD Performance and Acceptability Standards**

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

* Sanitary facilities
* Food preparation and refuse disposal
* Space and Security
* Thermal Environment
* Illumination and electricity
* Structure and materials
* Interior Air Quality
* Water Supply
* Lead-based paint
* Access
* Site and neighborhood
* Sanitary condition
* Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

* 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)
* HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

**Tenant Preference Items**

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

**Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

PHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

**8.I.B. ADDITIONAL LOCAL REQUIREMENTS**

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

**Thermal Environment [HCV GB p.10-7]**

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

PHA Policy

The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

**Clarifications of HUD Requirements**

PHA Policy

As permitted by HUD, the PHA has adopted the following specific requirements that elaborate on HUD standards.

***Walls***

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

If walls are yellowed or badly stained they must be repainted and sealed.

***Bedrooms***

Ceiling height must be a minimum of 7 ft high. Room dimensions must be 70 sf for one person and 90 sf for two persons. Must be a minimum of 7 ft in any direction.

***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.

Owners must provide and install window coverings (i,e, shades, blinds, etc.) and screens as necessary for each window designed to open for insect control or safety of persons.

All windows designed to open must be operable and lock securely.

Storm windows or 2 panels of glass are required on all windows.

In each room, there will be at least one exterior window that can be opened and that contains a screen and a storm.

All Egress windows must have escape ladders or stair-steps to facilitate a safe exit and must meet Minneapolis City Code dimensions.

***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 which lead directly to and from the assisted unit must have a turn-style deadbolt lock; double-keyed deadbolts are not permissible. The door must be sturdy and secure tightly and be free of other defects which would compromise the safety, security or integrity of the door. All trim and weather stripping must be intact.

All rooms considered to be a sleeping room must have a door that closes to allow for privacy.

All bathrooms must have a door that closes to allow for privacy.

***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 base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Carpet that is badly soiled must be cleaned and in sanitary condition, or it must be replaced.

***Stairs***

Where there are four or more consecutive steps, a handrail must be present to insure safe and proper exit to and from areas within the interior or the exterior of the property.

***Sinks***

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.

All sinks must have functioning stoppers.

***Security***

If window security bars or security screens are present on emergency exit windows, 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.

***Utility Meters***

In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption, or comply with Minnesota State Metering Law.

***Electrical Wiring***

 In the interest of safety - MPHA requires all electric wiring (IE: Romex, loose solid or stranded wiring, 120-240 volt only, not including low voltage wiring) on the exterior (outward facing side) of any ceiling, wall, floor or exterior of home/garage to be properly covered with metal or plastic conduit or encased (sheetrock, plywood or other suitable wall covering material) to prevent physical damage to wiring. All stud cavities containing exposed electric Romex wiring, whether vertical or horizontal, must also be covered with either proper conduit or suitable wall covering throughout complete home and garage.

***Intercom or Electronic Entry Devices***

If a multi-unit structure defined as any property having 4 or more units is constructed with an Intercom or Electronic Entry Device System, the system must be operable and serviceable through the main entry to the building.

***Inoperable Appliance***

Must be discarded.  If operable but not in use must be stored in a locked area. If discarding door must be removed.

***Overall Site Condition***

Litter/ trash and evidence of general lack of yard maintenance is not permitted.

***Carbon Monoxide Alarms***

Every single family dwelling and every multifamily dwelling unit shall be provided with a minimum of one UL (Underwriter Laboratories) approved and fully operational Carbon Monoxide (CO) alarm installed within (10) feet of each room lawfully used for sleeping purposes. If bedrooms are located on separate floors additional CO” alarms would be necessary within 10 feet of these areas. If bedrooms are located in separate areas (on the same level), additional CO alarms would be necessary within 10 feet of these areas. In lieu of installing multiple CO alarms in the hallway, a separate CO alarm could be installed inside each sleeping room. It is important that these devices be installed in accordance with the manufacture’s installations instructions and not be placed in “dead” air pockets such as corners of rooms, at the junction of walls and ceilings or within thirty-six inches of ventilation ducts.

**8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]**

HUD requires the PHA 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 24hours of PHA notification.

PHA Policy

The following are considered life threatening conditions:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable Hot Water Heater

Inoperable Furnace

Inoperable smoke detectors or CO Alarm

If an owner fails to correct life threatening conditions as required by the PHA, the PHA 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 PHA, the PHA will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

Deteriorating Lead Based Paint: If Risk Assessor (i.e. Hennepin County or other certified Risk Assessor) determines that abating the lead based paint will be unsafe for the family, the owner will be required to provide temporary alternative housing during the abatement of the lead based paint.

**8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

**Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

* Tenant-paid utilities not in service
* Failure to provide or maintain appliances owned by the family
* General Housekeeping throughout the interior/exterior of the property
* Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

**Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious lease violation the owner may take legal action to evict the family.

**8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]**

Any home that a child under six years of age is expected to or resides in must be free of any defected, cracked or peeling paint. If defective paint is identified during the inspection process a Risk Assessment shall be required along with appropriate Clearance of the property (if applicable). In these cases no Section 8 Inspection will be scheduled or conducted until the Risk Assessment and Clearance of the property have been provided.

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the PHA 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. 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 PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

**8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]**

The PHA has adopted the code standards set forth by the City of Minneapolis which are relative to the size and dimensions of bedrooms.

If the PHA 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 PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

**PART II: THE INSPECTION PROCESS**

**8-II.A. OVERVIEW [24 CFR 982.405]**

**Types of Inspections**

The PHA conducts the following types of inspections as needed. During any inspection, MPHA may take pictures of or video tape the unit and its contents and record any HQS deficiencies or any matter related arising out of the Plan or the administration of the Section 8/HCV Program. Appropriate action will be taken as a result of violations that are observed.

Each type of inspection is discussed in the paragraphs that follow

* *Initial Inspections*. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
* *Annual/Biennial Inspections*. HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, 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.

PHA Policy

* Those units which are in multi unit dwellings, managed by professional property management companies will only be required to have a regularly scheduled Inspection process conducted Bi-Annually. MPHA had the discretion to conduct annual inspections on any property. *Special Inspections.* A special inspection may be requested by the owner, the family, a third party or MPHA and may be related to any matter arising out of this Plan or the administration of the Section 8/HCV Program. Such matters include but are not limited to VAWA, Reasonable Accommodation requests or denials, family composition, use of the unit and other matters. During a reasonable accommodation special inspection, measurements may be taken of room dimensions, size of medical equipment or unit lay-out.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full annual inspection.

* *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.

**Inspection of PHA-Owned Units [24 CFR 982.352(b)]**

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

**Inspection Costs [Notice PIH 2016-05]**

The PHA may not charge the family or owner for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the

lease or for a first inspection during assisted occupancy of the unit. However, the PHA may

charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be

added to the PHA’s administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

PHA Policy

The PHA will not charge a fee for failed reinspections.

**Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

PHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 24 hours. Inspections may be scheduled between 8:00 a.m. and 5:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

**Attendance at inspections by owner and family.**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

PHA Policy

When a family occupies the unit, at the time of the annual inspection, an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged. If entry is not permitted to the unit for the first scheduled annual inspection each year, the participant will receive a final notice. If no entry to the unit is permitted during the second (2nd) inspection the family will be required to attend a Non-Disclosure Appointment. If the family fails to attend the Non-Disclosure appointment or fails to correct the family caused damages or housekeeping violation or fails to allow entry for inspection, the PHA will consider the family to have violated its obligation to make the unit available or in compliance with HQS and will take action to terminate the voucher. The notice of termination will provide the family the right to an informal hearing as referenced in Chapter 16.

At initial inspection of a unit, the PHA will inspect the unit, in the presence of the owner or owner's representative and sign a completed inspection form. The presence of a family representative is permitted, but is not required. If the owner or his or her representative is not present for the initial Move-In Inspection or if the unit is being occupied (during time of scheduled inspection) by any person other than the assisted family the Section 8 Inspection will not be conducted.

**8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]**

**Timing of Initial Inspections**

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 working days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 working days. The 15-working-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

PHA Policy

To the extent practicable, the PHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). If at the initial move-in inspection the unit fails HQS and the Inspector determines that the repairs would take longer than 30 days to complete or that a risk assessment is required, the RTA may be withdrawn by the PHA.

**Inspection Results and Reinspections**

PHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause. The PHA will re-inspect the unit within 15 business days of the date the owner notifies the PHA that the required corrections have been made. If a unit fails the initial inspection **for 3 or less minor non-life threatening conditions,** the PHA has the discretion to define the HQS pass date, as long as the corrections are made within a 30 day period. The PHA has the discretion to approve the start date of the rental subsidy to be effective with the pass date of the HQS inspection or re-inspection.

During the Initial Move-In Inspection if more than four HQS Violations are identified the unit is to be considered “not ready” and the Inspection process will discontinue until such a time as the owner or property manager has walked through the property with the “Commonly Failed Items List” and corrected all deficiencies to the best of his or her ability. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause.

If the time period for correcting the deficiencies, 21-30 days (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the PHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.

A unit is considered not available for inspection if anyone other than those listed on the RTA are occupying the unit.

**Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

**Appliances**

PHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

**8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405; 982.406,Notice PIH 2016-05]**

PHA Policy

Each unit under HAP contract must be inspected within 12 months of the last full HQS inspection.

The PHA will not rely on alternative inspection standards.

**Scheduling the Inspection**

PHA Policy

If an adult family member or the owner cannot be present on the scheduled date the family must request that the PHA reschedule the inspection at least 48-hours prior to the appointment or this is considered a NO ENTRY. The PHA will schedule a new inspection date that generally should take place within 30 business day’s days of the originally scheduled date. The PHA may schedule an inspection more than 30 business days after the original date as long as that date is within 12 months of the prior year inspection.

If the family misses the first scheduled appointment without requesting a new inspection at least 48-hours prior to the current scheduled inspection this is considered a NO ENTRY and the owner is notified and may be requested to attend the inspection to assure entry. If the owner is not present to allow entry and the family has missed two scheduled inspections the family will receive notice of Termination of Assistance for failure to allow the HQS Inspection

If a family is found to be responsible for damages or has housekeeping deficiencies which do not meet HQS they will be required to attend a Non – disclosure meeting. If the family fails to attend the Non- Disclosure or fails to correct the family caused damages or housekeeping violation the PHA will consider the family to have violated its obligation to make the unit available or in compliance with HQS and will take action to terminate the voucher. The notice of termination will provide the family the right to an informal hearing as referenced in Chapter 16.

**8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]**

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of

notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

PHA Policy

During a special inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full annual inspection.

**8-II.E. QUALITY CONTROL INSPECTIONS** [24 CFR 982.405(b), HCV GB p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

**8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

**Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

PHA Policy

When life threatening conditions are identified, the PHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA’s notice.

When failures that are not life threatening are identified, the PHA will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction. The inspection report is also available in the Owner Portal.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner’s HAP will be abated in accordance with PHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family’s assistance will be terminated in accordance with PHA policy (see Chapter 12).

**Extensions**

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

PHA Policy

Extensions will be granted in cases where the PHA 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 90 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

**Reinspections**

PHA Policy

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA approved extension. The PHA will conduct a re-inspection within 15-days of the notification from the owner that the HQS violation has been corrected. It is the owners responsibility to contact the Inspector to request re-inspection of an abated property.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the PHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.

**8-II.G. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

**HAP Abatement**

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments effective the date of the failed re-inspection [24 CFR 985.2(f)]. The PHA may abate for a minimum period of sixty (60) days and up to ninety (90) days. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

PHA Policy

The PHA will make all HAP abatements effective the first day following the expiration of the PHA specified correction period (including any extension).

The PHA will inspect abated units within 15 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

The PHA may determine that a re-inspection of the property does not need to be conducted if approved verification of the HQS violation corrective action is received. Proof of repair or documentation may be received by other means such as but not limited to; a fax or email sent containing a receipt or contract/invoice from a hired contractor, or pictures etc. The acceptance of “corrective action documentation” is at the sole discretion of the PHA. Generally the inspection approval is based upon either the date the documentation is received by inspections or the date of correction noted on the approved document. This is also at the sole discretion of the PHA.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

**HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

PHA Policy

The maximum length of time that HAP may be abated is 90 days, though exceptions will be granted if necessary to prevent displacement of the family. If the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the PHA is 30 days.

**8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and within any approved extensions), the PHA will require attendance at HQSE Class and the right to an Informal Hearing if program violations have been determined.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

**PART III: RENT REASONABLENESS [24 CFR 982.507]**

**8-III.A. OVERVIEW**

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit’s rent is reasonable.

**PHA-Owned Units [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

**8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

MPHA will determine the reasonable rent for a unit receiving assistance:

* At initial occupancy of the assisted unit;
* When MPHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
* Whenever the owner requests a rent adjustment;
* If there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date;
* When directed by HUD; and/or
* At any time deemed appropriate by MPHA.

**MTW Policy—When Rent Reasonableness Determinations are Required**

MPHA will determine the reasonable rent for a unit receiving assistance:

* At initial occupancy of the assisted unit;
* When MPHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
* Whenever the owner requests a rent adjustment; and/or
* At any time deemed appropriate by MPHA.

**Owner-initiated Rent Determinations**

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

PHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner’s lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

The Minneapolis Public Housing Authority must receive owner notification of any changes in the amount of the rent at least sixty (60) days before the changes go into effect. Contract rent increase requests must coincide with the annual anniversary date of the HAP Contract. Any such changes are subject to the Minneapolis Public Housing Authority determining them to be reasonable.

**PHA- and HUD-Initiated Rent Reasonableness Determinations**

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

PHA Policy

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

**LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]**

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD’s HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

**8-III.C. HOW COMPARABILITY IS ESTABLISHED**

**Factors to Consider**

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

* Location and age
* Unit size including the number of rooms and square footage of rooms
* The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
* The quality of the units including the quality of the original construction, maintenance and improvements made.
* Amenities, services, and utilities included in the rent

**Units that Must Not be Used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

***Note:*** Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

**Rents Charged for Other Units on the Premises**

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

**8-III.D. PHA RENT REASONABLENESS METHODOLOGY**

**How Market Data is Collected**

PHA Policy

The PHA will collect and maintain data on market rents in the PHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by neighborhood, zip code, census tract. The data will be updated on an ongoing basis~~.~~

**How Rents are Determined**

PHA Policy

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 PHA 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 PHA may make adjustments to the range of prices to account for these differences.

PHA may establish a rating system based on amenities, unit condition and age of unit to approve/disapprove the requested contract rent.

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. All rent concessions must be stated on lease.

The PHA will notify the owner of the rent the PHA 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 PHA 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 PHA’s request for information or the owner’s request to submit information.

**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 havea 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 here 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 which 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 housing quality standards 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; 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.
  + *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those requiredto meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
    - *Indoor Air*. Screens must be provided on all windows. Storm windows must be installed on all windows that are not double paned.
* *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.
* *Energy Conservation items*: The family may determine whether the amount of insulation, absence of storm doors and other energy conservation items are acceptable.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

**Chapter 9**

**GENERAL LEASING POLICIES**

**INTRODUCTION**

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

* The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
* The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
* The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
* The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
* The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]

For non-MTW families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]

**9-I.A. TENANT SCREENING**

The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA’s policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA’s possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].The PHA’s policy on providing information to the owner must be included in the family’s briefing packet [24 CFR 982.307(b)(3)].

Please see the PHA’s VAWA Policy regarding disclosure of confidential information provided under that Policy.

PHA Policy

The PHA will not screen applicants for family behavior or suitability for tenancy.

The PHA will not provide additional screening information to the owner.

**9-I.B. REQUESTING TENANCY APPROVAL** **[Form HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

* Completed Request for Tenancy Approval (RTA) – Form HUD-52517
* Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

PHA Policy

The RTA must be signed by both the family and the owner.

Completed RTA must be submitted by scheduling an appointment with their ET and bringing the paper work to MPHA’s offices.

The family may not submit, and the PHA will not process, more than one (1) RTA at a time.

When the family submits the RTA the PHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both) the PHA will not accept the RTA.

Missing information and/or missing documents will only be accepted as hard copies, email, or by fax. The PHA will not accept missing information over the phone.

When the family submits the lease, the PHA will also review the terms of the RTA for consistency with the terms of the lease.

If the terms of the RTA are not consistent with the terms of the lease, the PHA will not accept the RTA.

Corrections to the terms of the RTA and/or the lease will only be accepted as hard copies, email, or by fax. The PHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties cannot be reached by phone, fax, or email.

**9-I.C. OWNER PARTICIPATION**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

**9-I.D. ELIGIBLE UNITS**

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA’s jurisdiction. This includes the dwelling unit they are currently occupying.

**Ineligible Units [24 CFR 982.352(a)]**

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

**PHA-Owned Units [24 CFR 982.352(b)]**

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

PHA Policy

The PHA does not have any eligible PHA-owned units available for leasing under the voucher program.

**Special Housing Types [24 CFR 982 Subpart M]**

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

**Duplicative Assistance [24 CFR 982.352(c)]**

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

* Public or Indian housing assistance;
* Other Section 8 assistance (including other tenant-based assistance);
* Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
* Section 101 rent supplements;
* Section 236 rental assistance payments;
* Tenant-based assistance under the HOME Program;
* Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
* Any local or State rent subsidy;
* Section 202 supportive housing for the elderly;
* Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
* Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

**Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]**

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) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

**Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

**Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

**Rent Burden [24 CFR 982.508]**

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family’s adjusted monthly income. The term “family share” refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the units equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

**MTW Policy— Rent Burden**

MTW households will be responsible for all rent and tenant-paid utility costs not covered by the MPHA’s flat subsidy. The 40% family rent burden will not be considered by MPHA when approving tenancies.

**9-I.E. LEASE AND TENANCY ADDENDUM**

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

**Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner’s lease and the Tenancy Addendum the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

PHA Policy

The PHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

**Lease Information [24 CFR 982.308(d)]**

The assisted dwelling lease must contain all of the required information as listed below:

* The names of the owner and the tenant and all family members:
* The unit rented (address, apartment number, and any other information needed to identify the contract unit)
* The term of the lease (initial term and any provisions for renewal)
* The amount of the monthly rent to owner
* A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

**Term of Assisted Tenancy**

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

PHA Policy

The PHA will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

**Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

PHA Policy

The PHA will allow the owner to collect any security deposit amount in accordance with state law. Therefore, no modifications to the HAP contract will be necessary.

**Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA’s housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

PHA Policy

The PHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

**PHA Review of Lease**

The PHA will review the dwelling lease for compliance with all applicable requirements.

PHA Policy

If the dwelling lease is incomplete or incorrect, the PHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, by scheduling an appointment or by fax or email. The PHA will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties can’t be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

PHA Policy

The PHA may review the owner’s lease for compliance with state/local law.

**9-I.F. TENANCY APPROVAL [24 CFR 982.305]**

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where a non-MTW family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

PHA Policy

The PHA will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA are changed for any reason, including but not limited to negotiation with the PHA, the PHA will negotiate changes on the RTA with date/time and name of person authorizing change and obtain a corrected copy of the lease, signed by the family and the owner.

Corrections to the proposed lease will only be accepted as hard copies, in-person, by mail, email or by fax. The PHA will not accept corrections over the phone.

If the PHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. The PHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the PHA will attempt to negotiate the rents that are within $50 of meeting affordability with the owner.

If a new, approvable rent is negotiated, the tenancy will be approved upon receipt of the Rent Reduction Agreement. 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.

**9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]**

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the PHA may not pay any housing assistance payment to the owner.

PHA Policy

Owners who have not previously participated in the HCV program are encouraged to attend a meeting with the PHA in which the terms of the Tenancy Addendum and the HAP contract will be explained.

The owner and the assisted family will execute the dwelling lease and the owner or participant must provide a copy to the PHA.

The owner and the PHA will execute the HAP contract. The PHA will not execute the HAP contract until the owner has submitted any and all documentation requested by the PHA. The PHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

**9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]**

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

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

* Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
* Changes in lease provisions governing the term of the lease
* The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes . A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to the owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

PHA Policy

An increase of Contract Rent will only be approved if the notice of the increase is signed by both parties or a new signed one (1) year lease is submitted to the Minneapolis Public Housing Authority at least 60 days before the change(s) go into effect. Increases in Contract Rent will require Rent Reasonableness Review prior to approval.

A Contract Rent Increase not submitted at the time of the annual renewal date of the HAP contract will require the family to update all household income and family composition information.

A Contract Rent Increase Lease or signed notice of an increase not submitted with a 60 day notice to MPHA will not be approved.

**Chapter 10**

**MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY**

**INTRODUCTION**

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA’s jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA’s HCV program, whether the family moves to another unit within the PHA’s jurisdiction or to a unit outside the PHA’s jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA’s jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

**PART I. MOVING WITH CONTINUED ASSISTANCE**

**10-I.A. ALLOWABLE MOVES**

HUD regulations list six conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

* The family has a right to terminate the lease on notice to the owner (for the owner’s breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
* PHA policies on family moves must be consistent with civil rights laws and regulations. 24 CFR 982.354(c)(2)
* The lease for the family’s unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

PHA Policy

If the family and the owner mutually agree to terminate the lease for the family’s unit, the family must give the PHA a copy of the termination agreement.

The agreement must be:

* + signed by both owner and participant
  + end on last day of the month
  + the participant must submit the notice to the PHA within 5 days of signing the agreement.
* The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
* The PHA has terminated the assisted lease for the family’s unit for the owner’s breach[24 CFR 982.314(b)(1)(i)].
* The PHA determines that the family’s current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family’s old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]
* MPHA will comply with its VAWA Policy – see Appendix D

**10-I.B. RESTRICTIONS ON MOVES**

A family’s right to move is generally contingent upon the family’s compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

PHA Policy

* The PHA will deny a family permission to make an elective move during the family’s

initial lease term. This policy applies to moves within the PHA’s jurisdiction or outside it

under portability.

* The PHA 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 PHA’s

jurisdiction.

* In addition, the PHA will allow exceptions to these policies for purposes of reasonable

accommodation of a family member who is a person with disabilities (see Chapter 2).

* MPHA will comply with its VAWA Policy – see Appendix D

**Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

***Insufficient Funding***

The PHA may deny a family permission to move either within or outside the PHA’s jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2012-42 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

PHA Policy

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the PHA can demonstrate, in accordance with the policies in

Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to

accommodate the higher subsidy costs.

The PHA will create a list of families whose moves have been denied due to insufficient

funding. When funds become available, the families on this list will take precedence over

families on the waiting list. The PHA will use the same procedures for notifying families

with open requests to move when funds become available as it uses for notifying families

on the waiting list (see section 4-III.D).

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

***Grounds for Denial or Termination of Assistance***

The PHA has grounds for denying or terminating the family’s assistance [24 CFR 982.314(e)(2)].

PHA Policy

If the PHA has grounds for denying or terminating a family’s assistance, the PHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12.

**Restrictions on Elective Moves [24 CFR 982.314(c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family’s initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2012-42]. MPHA will comply with its VAWA Policy –see Appendix D

PHA Policy

The PHA will deny a family permission to make an elective move during the family’s initial lease term. This policy applies to moves within the PHA’s jurisdiction or outside it under portability.

The PHA 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 PHA’s jurisdiction.

The PHA will consider exceptions to these policies for the following reasons, including but not limited to: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), address an emergency situation over which a family has no control, owner’s lack of a rental license, or foreclosure of the rental unit.

In addition, the PHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Appendix C).

**10-I.C. MOVING PROCESS**

**Notification**

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA’s jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH2012-42]. The notices must be in writing [24 CFR 982.5].

See “MTW Policy – Eligibility for Port Out” for applicable policies (10-II.B)

**Approval**

PHA Policy

Upon receipt of a family’s notification that it wishes to move, the PHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The PHA will notify the family in writing of its determination not to accept within 10 business days following receipt of the family’s notification.

**Reexamination of Family Income and Composition**

PHA Policy

For families approved to move to a new unit within the PHA’s jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the PHA’s jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

**Voucher Issuance and Briefing**

PHA Policy

Upon receipt of a proper notice to vacate, The PHA will notify the family of the scheduled Briefing Presentation in the approval letter.

The PHA will explain the advantages of living in areas with low concentrations of low income families be provided to all families.

PHAs will provide this explanation as part of the oral briefing and the information packet.

PHA will explain how portability works to all families.

PHAs will provide information on how portability may affect the family’s assistance through rescreening, changes in subsidy standards and payment standards, and any other elements of the portability process which may affect the family’s assistance.

PHAs will provide access to a Housinglink which maintains a list of Property Owners willing to lease a unit to the family.

Housinglink covers the 7 County Metro Area and ensures that the list of landlords or other resources covers areas outside of poverty or minority concentration.

The PHA will provide materials on how to select a unit and any additional information on selecting a unit.

After confirmation of attendance at the mandatory Briefing Presentation, the PHA will schedule the participant with a Voucher Issuance appointment within five business days.

If the participant family’s new unit is not available at the time of the scheduled vacate date from the current unit, the family may submit a written request signed by both owner and tenant to remain in their current unit with HCV assistance for a period not to exceed one month.

If the participant elects NOT to vacate their current unit, the participant must provide to the PHA a written agreement signed by both owner and tenant to reinstate the lease and HAP Contract. The written agreement to reinstate the tenancy must be submitted to the PHA prior to the expiration date of the voucher.

For families moving into or families approved to move out of the PHA’s jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

**Housing Assistance Payments [24 CFR 982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

**PART II: PORTABILITY**

**10-II.A. OVERVIEW**

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA.** The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA.**

The receiving PHA has the option of administering the family’s voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family’s housing assistance payments and the fees for administering the family’s voucher. Under the second option, the receiving PHA pays for the family’s assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA’s voucher. Based on the receiving PHA’s response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2012-42].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of the same jurisdiction under portability. . Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

The initial PHA must determine the family’s eligibility to move in accordance with §§ 982.353 and 982.354 [24 CFR 982.355(c)(2)]

The initial PHA must contact the receiving PHA prior to approving the family’s request to move to determine if the receiving PHA will bill or absorb. The receiving PHA must respond to the initial PHA’s request in writing. [24 CFR 982.355(c)(3)]

If the receiving PHA notifies the initial PHA that it will absorb the voucher, it cannot reverse its decision at a later date without consent of the initial PHA. [24 CFR 982.355(c)(4)]

The initial PHA must include form HUD-52665 as part of the documents that the initial PHA sends the receiving PHA for a ported family. [24 CFR 982.355(c)(7)]

Administration of the ported voucher must be in accordance with the receiving PHA’s policies. This requirement also applies to policies of Moving to Work agencies. [24 CFR 982.355(c)(10)]

The receiving PHA must issue a voucher to the ported family that does not expire before 30 calendar days from the expiration date of the initial PHA’s voucher. The receiving PHA must contact the initial PHA if the family’s voucher expires before the family arrives at the receiving PHA, to determine whether the initial PHA will extend the voucher. [24 CFR 982.355(c)(13)]

The receiving PHA must notify the initial PHA of any extensions granted to the term of the voucher. [24 CFR 982.355(c)(14)]

The initial PHA must reimburse the receiving PHA for the lesser of 80% of the initial PHA’s administrative fee or 100% of the receiving PHA’s administrative fee. If administrative fees are prorated for the HCV program due to insufficient administrative fee funding, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill the initial PHA. [24 CFR 982.355(c)(14)]

The initial PHA must submit any SPV codes for the Family Report (HUD- 50058). The receiving PHA must maintain such codes as long as it is billing for the ported voucher. [24 CFR 982.355(g)]

Initial and receiving PHAs must administer SPVs in accordance with HUD established policy in cases where HUD has established alternative program requirements of such SPVs. [24 CFR 982.355(g)]

**10-II.B. INITIAL PHA ROLE**

**Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b) The initial PHA provides the family with the contact information for the receiving PHAs and the family chooses the receiving PHA. The family may request the initial PHA to choose the receiving PHA if that is the family’s preference. [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA’s jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

**MTW Policy—Eligibility for Port Out**

A participant or applicant family with an MTW voucher must be able to verify an employment, education, safety, medical/disability, Area of Opportunity or housing affordability need to support a move to another jurisdiction. Area of Opportunity is defined as a unit the family wishes to move into within the Twin Cities 7 county metro area that is neither located in a census tract where 40% or more of its residents live at 185% of the U.S. poverty level, or in a census tract that has 40% or more of its residents live at 185% of the U.S. poverty level *and* 50% or more of its residents are of color. Housing affordability means the family wishes to port to a jurisdiction in which the FMR is at least 5% less than the FMR in Minneapolis and the family’s rent portion is greater than 40% of their monthly adjusted family income.

MPHA will require the family provide all documents that MPHA deems necessary to verify the family’s need to relocate outside of MPHA’s jurisdiction. All verification documents must be dated within sixty (60) days and be consistent with the family’s employment, education, safety (VAWA), medical/disability, housing affordability need or selecting a unit in an Area of Opportunity. For the Area of Opportunity reason, the address of the unit will be provided to the E.T. and the address will be confirmed or denied as residing in an Area of Opportunity. If the family fails to provide verification documents and/or the documents provided are not sufficient, MPHA will deny the request to port-out.

Families who moved out of MPHA’s jurisdiction, under portability, with an expected move-in date, in the RHA, prior to January 1, 2014 will be exempt from the new portability criteria. If at any time an existing port-out client returns to MPHA’s jurisdiction and leases a unit in MPHA’s jurisdiction, all future moves outside of MPHA’s jurisdiction will be subject to the new criteria. An existing port-out client who moved out of MPHA’s jurisdiction prior to the implementation of this policy and who later requests to move to another jurisdiction outside of the initial RHA’s jurisdiction, will be subject to the new portability criteria.

This policy does not apply to:

* Families that port-in to PHA’s jurisdiction

If a family’s port-out request is denied the family may request an informal hearing consistent with MPHA’s policies on informal hearings.

***Applicant Families***

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA’s jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

PHA Policy

In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

PHA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the PHA’s jurisdiction at the time that the family’s initial application for assistance was submitted, the family must lease a unit within the initial PHA’s jurisdiction for at least 12 months before requesting portability.

MPHA will comply with its VAWA and reasonable accommodation policies. Refer to Appendixes C and D.

***Participant Families***

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).] As regards VAWA, please see the VAWA policy (Appendix D)

PHA Policy

The PHA will determine whether a participant family may move out of the PHA’s jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The PHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

**Determining Income Eligibility**

***Applicant Families***

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2012-42].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2012-42].

***Participant Families***

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

**Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

PHA Policy

For a participant family approved to move out of its jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition.

The PHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

**Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA’s jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

PHA Policy

Upon receipt of a proper notice to vacate, The PHA will notify the family of the scheduled Briefing Presentation in an approval letter sent within 10 business days following receipt of the family’s notification. After confirmation of attendance at the mandatory Briefing Presentation, the PHA will schedule the participant with a Voucher Issuance appointment. Families moving out of the Seven-County Twin Cities Metropolitan Area or out of Minnesota may not be required to attend the Briefing Presentation. A Voucher Issuance appointment will be scheduled for those families.

The PHA will advise the family that they will be under the RHA’s policies and procedures, including subsidy standards and voucher extension policies.

If the participant family’s new unit is not available at the time of the scheduled vacate date from the current unit, the family may submit a written request signed by both owner and tenant to remain in their current unit with HCV assistance for a period not to exceed one month.

If the participant elects NOT to vacate their current unit, the participant must provide to the PHA a written agreement signed by both owner and tenant to reinstate the lease and HAP Contract. The written agreement to reinstate the tenancy must be submitted to the PHA prior to the expiration date of the voucher.

**Voucher Issuance and Term**

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

PHA Policy

For participating families approved to move under portability, the PHA will notify the family of a scheduled briefing in an approval letter sent within 10 business days following receipt of the family’s notification. After confirmation of attendance of the mandatory briefing presentation, the PHA will schedule the participant with a voucher issuance appointment. Families moving out of the Seven-County Twin Cities Metropolitan Area or out of Minnesota may not be required to attend the Briefing Presentation. A Voucher Issuance appointment will be scheduled for those families.

The initial term of the voucher will be 90 days.

**Voucher Extensions and Expiration**

PHA Policy

The PHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA’s jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA’s jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA’s jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA’s voucher program, a family that moves to another PHA’s jurisdiction under portability must be under HAP contract in the receiving PHA’s jurisdiction within 60 days following the expiration date of the initial PHA’s voucher term (including any extensions). (See below under “Initial Billing Deadline” for one exception to this policy.)

**Initial Notification to the Receiving PHA**

After approving a family’s request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family’s behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

PHA Policy

Because the portability process is time-sensitive, the PHA will notify the receiving PHA by phone, fax, or e-mail to expect the family.

**Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

* Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH2012-42]
* A copy of the family’s voucher [Notice PIH 2012-42]
* 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 PIH2012-42]
* Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH2012-42]

PHA Policy

In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:

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 PIH2012-42]**

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA’s failure to comply with the deadline.

PHA Policy

If the PHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA in writing by mail, fax, or e-mail.

MPHA will comply with its VAWA and reasonable accommodation policies. Refer to Appendixes C and D.

**Monthly Billing Payments [24 CFR 982.355(e), Notice PIH2012-42]**

If the receiving PHA is administering the family’s voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

**Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family’s annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

**Denial or Termination of Assistance [24 CFR 982.355(c)(9)]**

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

**10-II.C. RECEIVING PHA ROLE**

If a family has a right to lease a unit in the receiving PHA’s jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA’s procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA’s waiting list is not used [24 CFR 982.355(10)]. However, the family’s unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family’s housing assistance payment is determined in the same manner as for other families in the receiving PHA’s voucher program [24 CFR 982.355(e)(2)].

**Responding to Initial PHA’s Request**

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. 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 [Notice PIH 2012-42].

PHA Policy

The PHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family’s voucher

**Initial Contact with Family**

When a family moves into the PHA’s jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA’s procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family’s paperwork but instead refers the family back to the initial PHA [Notice PIH2012-42].

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH2012-42]. (For more on this topic, see later under “Denial or Termination of Assistance.”)

**Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family’s search [Notice PIH2012-42].

PHA Policy

The PHA will require the family to attend a briefing. In a group briefing, the PHA will use a Powerpoint presentation to inform the family about the PHA’s payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, family obligations and the leasing process.

**Income Eligibility and Reexamination**

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH2012-42, 24 CFR 982.201(b)(4)]. The receiving PHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA’s voucher program [24 CFR 982.355(c)(1)].

PHA Policy

The PHA will rely upon the income information provided by the initial PHA and will not conduct a new reexamination of income and composition for incoming portable families.

**Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)] A receiving PHA cannot refuse to assist incoming portable families or direct them to another neighboring PHA for assistance. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families. [24 CFR 982.355(b)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA’s voucher [24 CFR 982.355(c)(6)].

***Timing of Voucher Issuance***

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family’s paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures [Notice PIH2012-42].

PHA Policy

When a family ports into its jurisdiction, the PHA will issue the family a voucher based on the paperwork provided by the family unless the family’s paperwork from the initial PHA is incomplete, the family’s voucher from the initial PHA has expired or the family does not comply with the PHA’s procedures, in which case the family will be returned to the Initial HA.

***Voucher Term***

The term of the receiving PHA’s voucher may not expire before the term of the initial PHA’s voucher [24 CFR 982.355(c)(6)]. The receiving PHA must issue a voucher to the ported family that does not expire before 30 calendar days from the expiration date of the initial PHA’s voucher. The receiving PHA must contact the initial PHA if the family’s voucher expires before the family arrives at the receiving PHA, to determine whether the initial PHA will extend the voucher. [24 CFR 982.355(c)(13)]

***Voucher Extensions [24 CFR 982.355(c)(6), Notice 2012-42]***

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA’s voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

PHA Policy

The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

MPHA will comply with its VAWA and reasonable accommodation policies. Refer to Appendixes C and D.

**Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA’s voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH2012-42]. (For more on this topic and the deadline for notification, see below under “Administering a Portable Family’s Voucher,”)

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA’s jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA’s voucher is only valid for the family’s search in the receiving PHA’s jurisdiction. [Notice PIH2012-42]

**Administering a Portable Family’s Voucher**

***Initial Billing Deadline***

If a portable family’s search for a unit is successful and the receiving PHA intends to administer the family’s voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 90 days following the expiration date of the family’s voucher issued by the initial PHA [Notice PIH2012-42]. A copy of the family’s form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

PHA Policy

The PHA will send its initial billing notice by fax or e-mail to meet the billing deadline.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH2012-42].

***Ongoing Notification Responsibilities [Notice PIH2012-42, HUD-52665]***

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family’s updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

PHA Policy

The PHA will send a copy of the updated HUD-50058 by email or fax at the same time the PHA and owner are notified of the reexamination results.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

* A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
* An abatement or subsequent resumption of the HAP payments
* Termination of the HAP contract
* Payment of a damage/vacancy loss claim for the family
* Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

***Late Payments [Notice PIH2012-42]***

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

***Overpayments [Notice PIH2012-42]***

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

* Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
* Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD’s discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH2012-42.

***Denial or Termination of Assistance***

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH2012-42]

PHA Policy

In the event that an applicant or participant porting into MPHA jurisdiction selects a unit that requires a Risk Assessment, the MPHA will withdraw the Request for Tenancy Approval (RFTA) and will return the portability paperwork to the Initial Housing Authority.

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

**Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing[24 CFR 982.355(d)(1), Notice PIH2012-42].

If the receiving PHA notifies the initial PHA that it will absorb the voucher, it cannot reverse its decision at a later date without consent of the initial PHA. [24 CFR 982.355(c)(4)]

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

PHA Policy

If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA will notify the initial PHA upon receipt of the portability paperwork. The effective date of the HAP contract will be the effective date of the absorption.

Prior to absorbing a family after that, the PHA will get consent of the initial PHA.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA’s voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

**Chapter 11**

**REEXAMINATIONS**

**INTRODUCTION**

The PHA is required to reexamine each family’s income and composition at least annually, and to adjust the family’s level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

**PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]**

**11-I.A. OVERVIEW**

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family’s income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

**11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]**

HUD permits PHAs to streamline the income determination process for family members with

fixed sources of income. While third-party verification of all income sources must be obtained

during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability

or death benefits, and other sources of income subject to a COLA or rate of interest. The

determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

PHA Policy

The PHA will not implement streamlined annual reexaminations

**11-I.C. SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

PHA Policy

The PHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA 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 lease-up date (admission).

If the family moves to a new unit, the PHA will perform a new annual reexamination.

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

**Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. . However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by all household members 18 years of age or older. If participation in an in-person interview poses a hardship because of a family member’s disability, the family should contact the PHA to request a reasonable accommodation (see Appendix C).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend the scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. Only one reschedule of the appointment is permissible. If a family does not attend the scheduled interview, the PHA will send a final appointment letter.

If a family fails to attend two scheduled interviews without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family’s address of record.

MPHA will comply with its LEP policy. Refer to Appendix B, Part C.

**11-I.D. CONDUCTING ANNUAL REEXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family’s income, expenses, and composition [24 CFR 982.551(b)].

PHA Policy

Families will be asked to supply all required information (as described in the reexamination notice) at the time of the appointment. The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, Criminal History Background Release, as well as supporting documentation related to the family’s income, expenses, and family composition.

At each annual reexamination the Head of Household and all household members 18 years of age at or before the annual effective date, will be required to sign a Release to obtain Criminal History Background Check at the discretion of the PHA. The PHA will obtain criminal history when there is a reasonable belief that criminal or drug activity may be occurring at the assisted unit or being perpetrated by members of an assisted family.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension in writing.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant’s household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

PHA Policy

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant’s household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

* Legal identity
* Age
* Social security numbers
* A person’s disability status
* Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

**11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, 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 reexamined along with the income eligibility of the student’s parents on an annual basis. In these cases, both the student and the student’s parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student’s parents will not be considered in determining the student’s ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

PHA Policy

During the annual reexamination process, the PHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student’s individual income as well as the income of the student’s parents. If the student has been determined “independent” from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents’ income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student’s assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

**11-I.F. EFFECTIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

PHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date

Written notification will be postmarked by the 5th of the preceding month that the change is to take effect.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the PHA chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by the PHA, but will provide a written notification that will be postmarked by the 5th of the preceding month that the change is to take effect

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and MPHA may offer a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

A family causes a delay in the reexamination process when the family failed to provide requested information by the date specified by MPHA and the delay prevents MPHA from completing the reexamination as scheduled.

If the MPHA causes the delay, MPHA may offer the family a repayment agreement to satisfy any overpayment of HAP.

**PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]**

**11-II.A. OVERVIEW**

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family’s income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family’s request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

**MTW Policy—Limit on Optional Interim Reexaminations**

MTW households are subject to the required interim reporting requirements and policies outlined in this chapter. However, MTW households may not request more than one optional interim reexamination between regular reexaminations. Elderly and disabled MTW households are not subject to this limit.

Interim reexaminations that are the result of a change in family composition or any other change the family is required to report are not subject to this limit. For clarification on what constitutes an optional interim reexamination, read the applicable sections on “Optional Reporting.” (11-II.C)

Under certain circumstances, MTW households may request a hardship from the limit on optional interim reexaminations as needed.

**MTW Policy—Interim Reexamination Hardship Policy**

MTW families may request a hardship exemption from the limit on optional interim reexaminations. If approved, MPHA may permit the family to request more than one interim reexamination between regular reexaminations. The hardship must be the result of one of the following:

* The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
* The income of the family has decreased because of a significant change in circumstances, including loss of employment;
* The death of a household member has occurred affecting a major source of income for the family; and/or,
* Other circumstances determined by MPHA.

MPHA will not grant hardship exemptions for the limit on interim reexaminations if the hardship is considered temporary, defined as lasting less than 90 days.

**11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

PHA Policy

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

**New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

PHA Policy

The family must inform the PHA in writing of the birth, adoption or custody of a minor child within 10 business days.

The PHA will approve the addition of a child to the household upon receipt of (1) a birth certificate; (2) Social Security number; (3) legal proof of adoption; (4) a court order; (5) a delegation of powers of a parent under Minn. Stat. 524.5.211 (2016); (6) notarized written permission of the parent of other person having custody of the child; or (7) if none of the above documents are available, reliable, accurate and objective third-party verification of custody.

**New Family and HouseholdMembers Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA 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)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

PHA Policy

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the PHA prior to the individual moving in the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space or occupancy standards.

If the PHA determines an individual meets the PHA’s eligibility criteria criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will exceed PHA occupancy standards as defined in Chapter 5, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA’s eligibility criteria and documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member. The PHA will notify the applicant of the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

**Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

PHA Policy

If a household member ceases to reside in the unit, the family must inform the PHA in writing within 10 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 PHA in writing within 10 business days.

**11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

**PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

PHA Policy

The PHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the start and conclusion of the 24 -month eligibility period.

If the family has reported zero income, the PHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification that differs from the tenant provided documents becomes available, the PHA will conduct an interim reexamination.

The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

**Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

PHA Policy

To maintain consistency in processing deadlines of MPHA staff, ALL interim rent adjustments (based on increase or decrease in family income) will provide for a written notification that will be postmarked by the 5th of the preceding month that the change is to take effect For example, if the change is properly reported in January, then January is the reporting month. February then is the waiting month – allowing MPHA to gather replacement income information and provide both the participant and the property owner with a written notification that will be postmarked by the 5th of the preceding month that the change is to take effect. The change will be effective March 1st.

MPHA determines the annual, anticipated income of a participant family through HUD’s EIV system, which also documents for the PHA any income discrepancy between HUD’s PIC and EIV systems. The current interim rent policy has created “loopholes” to the regulatory “annualized, anticipated income” and has resulted in an increase in income discrepancies reported to the PHA by HUD. The 30 day notice for ALL interim rent adjustments will provide for greater consistency in rent calculation for the greatest number of participant families.

***Required Reporting***

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

PHA Policy

Household members who are at zero ($0) income or have only non-wage income must report all changes in income and expenses in writing within 10 calendar days of the change.

All household members must report all changes in unearned income within 10 calendar days of the change.

***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9]. See “MTW Policy – Limit on Optional Reporting” for applicable policies.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family’s share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

PHA Policy

The PHA has defined a decrease in income as any change in household income that is expected to exist thirty (30) days or longer. This includes persons who are employed by a Temporary Staffing Agency and who have not had an assignment or have had a change in hours or pay for 30 days or longer.

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file, but not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the PHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Household members who have earned income (wages) and have an increase in earned income (wages) do not need to report any changes until their annual recertification.

**11-II.D. PROCESSING THE INTERIM REEXAMINATION**

**Method of Reporting**

PHA Policy

The family must notify the PHA of changes in writing, including the required supporting documentation.

The family may be required to attend an interview for an interim reexamination. However, the PHA may determine that an interview is not warranted.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any supporting documentation of the change within 20 business days. Failure to submit the required documentation may impact the interim effective date. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or by appointment.

**Effective Dates**

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

PHA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days’ notice to the family.

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 MPHA may offer a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

To maintain consistency in processing deadlines of MPHA staff, ALL interim rent adjustments (based on increase or decrease in family income) will provide for a 30 day notice of the change in rent calculations.

For example, if the change is properly reported in January, then January is the reporting month. February then is the waiting month – allowing MPHA to gather replacement income information and provide both the participant and the property owner a 30 day notice of the change. The change will be effective March 1st.

**PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

**11-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

**11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA’s calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

**Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family’s situation changes, new payment standards are applied at the following times:

* If the PHA’s payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
* If the payment standard amount has i*ncreased,* the increased payment standard will be applied at the *first* *annual* reexamination following the effective date of the increase in the payment standard.
* If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second* *annual* reexamination following the effective date of the decrease in the payment standard.
* If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

**Subsidy Standards [24 CFR 982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA’s subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family’s *first* *annual* reexamination following the change in family unit size.

**Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family’s utility arrangement with the owner, or in the PHA’s utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

PHA Policy

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

**MTW Policy – Utility Allowances**

If the family’s utility payment responsibility for heat changes, MPHA will revise the subsidy using the table for the applicable utility payment responsibility for heat.

As described in Chapter 16, MPHA will periodically update the subsidy table to reflect current utility costs. Whenever MPHA makes a subsidy determination, MPHA will use the current subsidy tables.

**11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

* The amount and effective date of the new HAP payment
* The amount and effective date of the new family share of the rent
* The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA’s determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

**11-III.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information resulting in the over/under payment of subsidy correction will be made in accordance with the policy stated in 11-1.F

**Chapter 12**

**TERMINATION OF ASSISTANCE AND TENANCY**

HUD regulations specify the reasons for which a PHA can terminate a family’s assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations 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 PHA 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 PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA 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**

**12-I.A. OVERVIEW**

HUD requires the PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA 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 PHA.

**12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]**

As a family’s income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

PHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the PHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

**12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the PHA terminate the family's assistance at any time.

PHA Policy

The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family’s assistance, the PHA will follow the notice requirements in Section 12-II.E.

**12-I.D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the PHA to terminate assistance in the following circumstances.

**Eviction [24 CFR 982.552(b)(2); 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV programfor a serious or repeated violation of the lease.

PHA Policy

A family is *evicted* if the family moves after a court ordered eviction has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has filed an eviction action for serious or repeated lease violations but before a legal eviction order has been issued,termination of assistance is not mandatory. However, the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C.

Serious and/or repeated lease violations will include, but not be limited to, nonpayment of rent, nonpayment of tenant-paid utilities, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

**Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

**Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The PHA 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 PHA, 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 7 for a complete discussion of documentation requirements.

**Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c),**

**Notice PIH 2012-10]**

The PHA 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.

However, if the family is otherwise eligible for continued program assistance, and the PHA

determines that the family’s failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family’s control, the PHA may defer the family’s termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

**Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)]**

The PHA 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.

**Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

Should a PHA discover that a member of an assisted household was subject to a lifetime

registration requirement at admission and was erroneously admitted after June 25, 2001, the

PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family

member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

**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 PHA 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 PHA 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 PHA must immediately terminate program assistance for deceased single member households.

**12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

**Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires MPHA to establish policies that permit MPHA to terminate assistance if the M PHA determines that:

1. Any household member, guest or person under the tenant’s control 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

2. Any household member’s, guest or person under the tenant’s control’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents

3. Any household member, guest or person under the tenant’s control has violated the family’s obligation not to engage in any drug-related criminal activity

4. Any household member, guest or person under the tenant’s control has violated the family’s obligation not to engage in violent criminal activity

***Use of Illegal Drugs and Alcohol Abuse***

PHA Policy

PHA Family obligations include guests and other persons under the tenant’s control.

The PHA may terminate a family’s assistance if any household member, guest or person under the tenant’s control 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.

The PHA may terminate assistance if any household member, guest or person under the tenant’s control’s abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The PHA may consider all credible evidence, including but not limited to, any record of charges, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol. See 24 C. F. R. 982.552(c)(2) & Section 12-II.C & Section 12-II.D.

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.

In making its decision to terminate assistance, the PHA may consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

***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).

*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.

PHA Policy

PHA Family obligations include guests and other persons under the tenant’s control.

The PHA may terminate a family’s assistance if any household member, guest or persons under the tenant’s control has violated the family’s obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA may consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

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.

In making its decision to terminate assistance, the PHA may consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]**

HUD permits the PHA to exercise discretion when terminating assistance.

PHA Policy

The PHA **will not** terminate a family’s assistance because of the family’s failure to meet its obligations under the Family Self-Sufficiency program.

The PHA **may** terminate a family’s assistance if:

1. The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

2. The family has failed to cooperate with or allow an HQS inspection.

3. The family has failed to keep the unit in a clean and safe condition, and/or has failed to dispose of all garbage, rubbish and other waste in a sanitary and safe manner. MPHA considers a unit unclean and/or unsafe if it contains fire or other hazards or clutter in the dwelling unit or on the premises. Hazards include flammables, gas, naphtha or solvents, or inoperable appliances or heating, cooling, plumbing or electrical equipment, and others .

4. Any family member has been evicted from federally-assisted housing in the last five years.

5. Any PHA has ever terminated assistance under the program for any member of the family.

6. Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

7. The family currently owes rent or other enforceable amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

8. The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other enforceable amounts owed by the family under the lease.

9. The family has breached the terms of a repayment agreement entered into with the PHA.

10. A family member has engaged in any criminal activity or alcohol abuse that MPHA determines may interfere with the health, safety, or right to peaceful enjoyment of the premises by guests, neighbors, or MPHA staff or vendor.

11. A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the PHA may consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

***Family Absence from the Unit [24 CFR 982.312]***

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

PHA Policy

If the family is absent from the unit for more than 90 consecutive calendar days in a 12 month period for any reason, the family’s assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

***Insufficient Funding [24 CFR 982.454]***

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

PHA Policy

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA 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 PHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA’s annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

First, the PHA will terminate families who are of sufficient income to not receive any HAP.

Second, the PHA will terminate families who owe the PHA money but are not yet under a repayment agreement. Families in this situation will be terminated in the order of the amount owed, beginning with the largest.

Third, the PHA will terminate families who owe money to MPHA under repayment agreement and who have made at least one late payment.

Fourth, the PHA will terminate families who owe the PHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

**PART II: APPROACH TO TERMINATION OF ASSISTANCE**

**12-II.A. OVERVIEW**

The PHA 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 PHA the discretion to either terminate the family’s assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA 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.

**12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA 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.

**12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

**Change in Household Composition**

As a condition of continued assistance, the PHA 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)].

PHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not reside/stay in the assisted unit. The family must present evidence of the former family member’s current address upon PHA request. A statement from the owner of the current rental unit certifying that the family member is no longer in residence will be considered sufficient alternative form of verification.

**Repayment of Family Debts**

PHA Policy

If a family owes amounts to the PHA, as a condition of continued assistance, the PHA will require the family to repay the full amount or MPHA may offer a repayment agreement in accordance with Chapter 16 for policies on repayment agreements.

**12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE**

**Evidence**

For criminal activity, HUD permits the PHA 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)].

PHA Policy

The PHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions. See section 16-III.C for additional information regarding evidence.

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

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

PHA Policy

The PHA 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 effects that termination of assistance may have on other members of the

family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including

whether the culpable family member is a minor or a person with disabilities or

(as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future

While a record of arrest(s) will not be used as the basis for termination, an arrest

may, however, trigger an investigation to determine whether the participant

actually engaged in disqualifying criminal activity. As part of its investigation, the

PHA may obtain the police report associated with the arrest and consider the

reported circumstances of the arrest. The PHA may also consider:

Any statements made by witnesses or the participant 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 participant 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, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program. or has otherwise been rehabilitated successfully

The PHA will require the participant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program. or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

MPHA will comply with its VAWA policy. Refer to Appendix D

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

If the family includes a person with disabilities, the PHA’s decision to terminate the family’s assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8 and MPHA’s Reasonable Accommodation Policy (see Appendix C, Table of Contents)

PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the PHA may approve alternative measures that are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. MPHA will comply with our Reasonable Accommodation Policy - Appendix C.

**12-II.E. TERMINATION NOTICE**

HUD regulations require PHAs 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.

PHA Policy

Whenever a family’s assistance will be terminated, the PHA will send a written notice of

termination to the family and to the owner. The PHA will also send a form HUD-50066

to the family with the termination notice. The notice will state the date on which the

termination will become effective. This date generally will be at least 30 calendar days

following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family’s assistance will be terminated, the PHA

will, if appropriate, advise the owner of his/her right to offer the family a separate,

unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of

termination that the PHA sends to the family must meet the additional HUD and PHA notice

requirements discussed in section 16-III.C of this plan. VAWA 2013 expands notification

requirements to require PHAs to provide notice of VAWA rights and the HUD 50066 form

when a PHA terminates a household’s housing benefits.

PHA Policy

Whenever the PHA decides to terminate a family’s assistance because of the family’s

action or failure to act, the PHA will include in its termination notice the VAWA

information described in section 16-IX.C of this plan and a form HUD-50066. The PHA

will request in writing that a family member wishing to claim protection under VAWA

notify the PHA within 14 business days.

Still other notice requirements apply in two situations:

If a criminal record is the basis of a family’s termination, the PHA must provide a copy of

the record to the subject of the record and the tenant so that they have an opportunity to

dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].

If immigration status is the basis of a family’s termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

**PART III: TERMINATION OF TENANCY BY THE OWNER**

**12-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section. ,.

**12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24CFR 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. This includes failure to pay rent or other amounts due under the lease. However, the PHA’s failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

**Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

**Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant’s control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

* Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
* Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
* Any violent criminal activity on or near the premises; or
* Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

* Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
* Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

**Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

* Failure by the family to accept the offer of a new lease or revision;
* The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
* A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

**12-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 PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

**12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

* The nature of the offending action
* The seriousness of the offending action;
* The effect on the community of the termination, or of the owner’s failure to terminate the tenancy;
* The extent of participation by the leaseholder in the offending action;
* The effect of termination of tenancy on household members not involved in the offending activity;
* The demand for assisted housing by families who will adhere to lease responsibilities;
* The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
* The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

**12-III.E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY’S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

**EXHIBIT 12-1: 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 PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by [24 CFR part 5](http://www.washingtonwatchdog.org/documents/cfr/title24/part5.html)). “Information” includes any requested certification, release or other documentation The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
* The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
* Any information supplied by the family must be true and complete.
* The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

PHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

* The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
* The family must not commit any serious violation of the lease.

PHA Policy

The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, nonpayment of tenant-paid utilities, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

* The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

PHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the PHA at the same time the owner is notified.

* The family must promptly give the PHA a copy of any owner eviction notice.
* The family must use the assisted unit for residence by the family. The unit must be the family’s only residence.
* The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The PHA will approve the addition of a child to the household upon receipt of (1) a birth certificate; (2) legal proof of adoption; (3) a court order; (4) a delegation of powers of a parent under Minn. Stat. § 524.5-211 (2016); (5) written permission of the parent of other person having custody of the child; or (6) if none of the above documents are available, reliable, accurate and objective third-party verification of custody. The family must request PHA approval to add any other family member as an occupant of the unit.

PHA Policy

The request to add an adult family member must be submitted in writing and, if required, approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 5.

* The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
* If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
* The family must not sublease the unit, assign the lease, or transfer the unit.

PHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

* The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
* The family must promptly notify the PHA when the family is absent from the unit.

PHA Policy

Notice is required under this provision when one or more family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA at the start of the extended absence.

* The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
* The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
* Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
* Family members, guests and persons under the tenant’s control must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal or other criminal activity.
* Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
* An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
* A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

**Chapter 13**

**OWNERS**

**INTRODUCTION**

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

**PART I. OWNERS IN THE HCV PROGRAM**

**13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]**

**Recruitment**

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

PHA Policy

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

Distributing printed material about the program to property owners and managers

Maintaining a web page with information about the program pertinent to property owners and managers

Holding owner workshop/information meetings at least once a year

Developing working relationships with owners

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

**Retention**

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

PHA Policy

All PHA activities that may affect an owner’s ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The PHA will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The PHA will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated PHA contact person.

Coordinating inspection and leasing activities between the PHA, the owner, and the family.

Providing answers to Frequently Asked Questions (FAQ) on the PHA’s website

Additional services may be undertaken on an as-needed basis, and as resources permit.

**13-I.B. BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

PHA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the PHA. The PHA will refer any such owners to the “hList” maintained by Housing Link and make the “hList” available to the HCV family.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program’s requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner’s proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner’s dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family’s tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

**13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]**

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

* Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
* Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
* Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
* Complying with equal opportunity requirements
* Preparing and furnishing to the PHA information required under the HAP contract
* Collecting from the family any security deposit, the tenant’s contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family.
* Enforcing tenant obligations under the dwelling lease
* Paying for utilities and services (unless paid by the family under the lease)
* Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]

**13-I.D. OWNER QUALIFICATIONS**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

**Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

**Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**

The PHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

**Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]**

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

* Any present or former member or officer of the PHA (except a participant commissioner)
* Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
* Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
* Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include [HCV Guidebook pp.11-2 and 11-3]:

* Complete statement of the facts of the case;
* Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
* Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state’s attorney general should be obtained;
* Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
* Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
* If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
* If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
* If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
* If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

PHA Policy

In considering whether to request a conflict of interest waiver from HUD, the PHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

**Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the PHA, at the PHA’s discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner’s properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

PHA Policy

The PHA will refuse to approve a request for tenancy if any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the 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 failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity

The owner has a history or practiceof renting units that fail to meet state or local housing codes;

The owner has not paid state or local real estate taxes, fines, or assessment

The owner does not have a current rental license for the property

The owner’s property is in a foreclosure status

Absentee owners who do not have a local management presence.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

**Legal Ownership of Unit**

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

PHA Policy

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year, verification through Hennepin County Property Information website at <http://www16.co.hennepin.mn.us/pins/>).

**13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

**PART II. HAP CONTRACTS**

**13-II.A. OVERVIEW**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner’s responsibilities under the program, as well as the PHA’s obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the PHA’s HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

**13-II.B. HAP CONTRACT CONTENTS**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

PHA Policy

The PHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

* Lease of Contract Unit
* Maintenance, Utilities, and Other Services
* Term of HAP Contract
* Provision and Payment of Utilities and Appliances
* Rent to Owner: Reasonable Rent
* PHA Payment to Owner
* Prohibition of Discrimination
* Owner’s Breach of HAP Contract
* PHA and HUD Access to Premises and Owner’s Records
* Exclusion of Third Party Rights
* Conflict of Interest
* Assignment of the HAP Contract
* Written Notices
* Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

**13-II.C. HAP CONTRACT PAYMENTS**

**General**

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family’s lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family’s share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Requests to reconcile payment discrepancies between the PHA and owners/management companies must be made during the calendar year in which they occurred. This does not include overpayments to owners which will be recovered by the PHA based on HUD regulations that are cited in the Housing Assistance Payments (HAP) Contract Part B 7 (f).

**Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner’s knowledge, the family resides in the unit as the family’s only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

**Late HAP Payments [24 CFR 982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner’s normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family’s share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA’s control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

**Termination of HAP Payments**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

PHA Policy

The owner must immediately inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the PHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the PHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will terminate HAP payments at the end of the month the eviction took place. If the owner is forced to obtain a writ of restitution and does so in a timely manner the PHA will make payments until the date the family is physically evicted from the unit. The owner must inform the PHA of the date when the family is physically evicted from the unit. The owner will be asked to provide written documentation showing the Writ of Recovery/Restitution was executed.

**13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

* If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
* If the owner has violated any obligation under any other HAP contract under Section 8
* If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
* For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation ns for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
* If the owner has engaged in drug-related criminal activity
* If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

PHA Policy

Before the PHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the PHA will conduct an audit of the owner’s records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the PHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner’s record of compliance and the number and seriousness of any prior HAP contract violations.

**13-II.E. HAP CONTRACT TERM AND TERMINATIONS**

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

* The owner or the family terminates the lease;
* The lease expires;
* The PHA terminates the HAP contract;
* The PHA terminates assistance for the family;
* The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
* 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
* The family is absent from the unit for longer than the maximum period permitted by the PHA;
* The Annual Contributions Contract (ACC) between the PHA and HUD expires
* The PHA elects to terminate the HAP contract.

PHA Policy

The PHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.;

The owner fails to maintain current rental license;

The owner’s rental unit is foreclosed;

If a unit has gone through the foreclosure process and the new owner will occupy the unit as a primary residence and has provided the tenant with a notice to vacate at least 90 days before the effective date of such notice [Protecting Tenants from Foreclosure Act of 2009]

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

PHA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the PHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

**13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

The assignment will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

PHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The PHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

In the case where a change in ownership of an assisted unit has occurred because of foreclosure, MPHA will make payments to the successor in interest in compliance with the Protecting Tenants at Foreclosure Act of 2009.

The new owner must provide a written certification to the PHA that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner’s IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

The effective date of the HAP contract assignment;

The new owner must not be a prohibited relative.

The Section 8 statement of Property of Ownership/Agent Change Form.

Documentation of current Rental Property Licensing by the City of Minneapolis.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in chapter 9.

**Chapter 14**

**PROGRAM INTEGRITY**

**INTRODUCTION**

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND   
INVESTIGATING ERRORS AND PROGRAM ABUSE

**14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

PHA Policy

The PHA anticipates that families, owners, and PHA employees will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the PHA’s HCV program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The PHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

PHA staff will be required to explain the contents of all HUD- and PHA-required forms if requested.

The PHA will hold regularly scheduled informational meetings for first-time owners.

The PHA will provide each PHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse* *or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

**14-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

**Quality Control and Analysis of Data**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

PHA Policy

The PHA will employ a variety of methods to detect errors and program abuse.

The PHA routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The PHA will compare family-reported income and expenditures to detect possible unreported income.

**Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

PHA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA’s error detection and abuse prevention efforts.

**Individual Reporting of Possible Errors and Program Abuse**

PHA Policy

The PHA will encourage staff, program participants, and the public to report possible program abuse.

**14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

**When the PHA Will Investigate**

PHA Policy

The PHA 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 PHA 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 PHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

**Consent to Release of Information [24 CFR 982.516]**

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

**Analysis and Findings**

PHA Policy

The PHA 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

See section 16-III.C for additional information regarding evidence.

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, 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, the PHA may 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, the PHA may 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

The PHA will inform the relevantparty in writing of its findings and remedies within 30 Calendar days, if practicable, of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

**PART II: CORRECTIVE MEASURES AND PENALTIES**

**14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

**Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

PHA Policy

Increases and decreases in the family share will be implemented only after the family has received 30 days notice.

**Reimbursement**

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

**14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

**Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]**

PHA Policy

In the case of errors due in part or in total to the family or program abuse, the family will be required to repay any excess subsidy received. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the PHA will terminate the family’s assistance in accordance with the policies in Chapter 12.

**PHA Reimbursement to Family [HCV GB p. 22-12]**

PHA Policy

The PHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

**Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

* Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
* Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

PHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the PHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the PHA on the family’s behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

**Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

* The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
* The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
* The PHA may deny or terminate the family’s assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
* The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

**14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

**Owner Reimbursement to the PHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

PHA Policy

In cases where the owner has received excess subsidy, the PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

**Prohibited Owner Actions**

An owner participating in the HCV program must not:

* Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
* Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

PHA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the PHA

Charging a security deposit other than that specified in the family’s lease

Charging the family for services that are provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA

Residing in the unit with an assisted family

**Remedies and Penalties**

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

* Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
* Terminate the HAP contract (See Chapter 13).
* Bar the owner from future participation in any PHA programs.
* Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

**14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

**Repayment to the PHA**

A family and an owner are not required to repay an overpayment of subsidy if MPHA solely causes the error or program abuse. [HCV GB. 22-12].

**PHA Reimbursement to Family or Owner**

The PHA 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 the PHA’s administrative fee reserves [HCV GB p. 22-12].

**Prohibited Activities**

PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the PHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

Misappropriating or misusing HCV funds

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

**14-II.E. CRIMINAL PROSECUTION**

PHA Policy

When the PHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

**14-II.F . FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA 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 the PHA 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 the PHA 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 the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

**Chapter 15**

**SPECIAL HOUSING TYPES**

[24 CFR 982 Subpart M]

**INTRODUCTION**

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

PHA Policy

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

**PART I. SINGLE ROOM OCCUPANCY**

[24 CFR 982.602 through 982.605]

**15-I.A. OVERVIEW**

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

**15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the PHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

**15-I.C. HOUSING QUALITY STANDARDS (HQS)**

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

* *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
* *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

* *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
* *Space and Security*: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

**PART II. CONGREGATE HOUSING**

[24 CFR 982.606 through 982.609]

**15-II.A. OVERVIEW**

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

**15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident’s monthly housing expense only. The residents’ costs for food service should not be included in the rent for a congregate housing unit.

**15-II.C. HOUSING QUALITY STANDARDS**

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

**PART III. GROUP HOME**

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

**15-III.A. OVERVIEW**

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

**15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA’s subsidy standard. If there is a live-in aide, the aide must be counted in determining the household’s unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

**15-III.C. HOUSING QUALITY STANDARDS**

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

* *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
* *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
* *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
* *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
* *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  + Dangerous walks or steps
  + Instability
  + Flooding, poor drainage
  + Septic tank back-ups
  + Sewage hazards
  + Mud slides
  + Abnormal air pollution
  + Smoke or dust
  + Excessive noise
  + Vibrations or vehicular traffic
  + Excessive accumulations of trash
  + Vermin or rodent infestation, and
  + Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

**PART IV. SHARED HOUSING**

[24 CFR 982.615 through 982.618]

**15-IV.I. OVERVIEW**

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

**15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

**15-IV.C. HOUSING QUALITY STANDARDS**

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

* *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
* *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

**PART V. COOPERATIVE HOUSING**

[24 CFR 982.619]

**15-V.A. OVERVIEW**

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

**15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

**15-V.C. HOUSING QUALITY STANDARDS**

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

**PART VI. MANUFACTURED HOMES**

[24 CFR 982.620 through 982.624]

**15-VI.A. OVERVIEW**

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. PHAs may, but are not required to, provide assistance for such families.

**15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE**

**Family Income**

In determining the annual income of families leasing manufactured home spaces, the value of the family’s equity in the manufactured home in which the family resides is not counted as a family asset.

**Lease and HAP Contract**

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

**15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

**Payment Standards**

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

**Utility Allowance**

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

**Space Rent**

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

**Housing Assistance Payment**

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

**Rent Reasonableness**

Initially, and annually thereafter the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

**15-VI.D. HOUSING QUALITY STANDARDS**

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

***Manufactured Home Tie-Down***

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

CHAPTER 16

PROGRAM ADMINISTRATION

**INTRODUCTION**

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA’s policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA may offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA’s responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

**PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

The PHA must maintain an administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account , and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNA Account without specific approval.

# PHA Policy

Expenditures from the UNP account will be made in accordance with all applicable Federal requirements.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

**16-II.A. OVERVIEW**

Although many of the program’s requirements are established centrally by HUD, the HCV program’s regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

* *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
* *Utility Allowances*, which specify how a family’s payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

PHA Policy

Copies of the payment standard and utility allowance schedules are available for review in the PHA’s offices during normal business hours and on our agency website.

The PHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

**16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA’s jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

**Updating Payment Standards**

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA’s jurisdiction are unacceptably high 24 CFR 982.503(g)].

PHA Policy

The PHA 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 PHA may consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability**: The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served.

**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 PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size. This policy does not apply to MTW households.

**Changes in Rent to Owner**: The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The PHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate**: The PHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1st of every year unless, based on the proposed FMRs, it appears that one or more of the PHA’s current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the PHAs payment standards will be effective October 1st instead of January 1st.

**Exception Payment Standards [982.503(c)]**

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD’s sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

**Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]**

See Chapter 6, “MTW Policy—Reasonable Accommodation for Additional Subsidy” and “MTW Policy – Payment Standards” for MTW policies related to payment standards and reasonable accommodations.

**"Success Rate" Payment Standard Amounts** **[24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a “success rate payment standard” that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

* Fewer than 75 percent of families who were issued vouchers became participants;
* The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
* The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA’s jurisdiction within the FMR area.

**Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD’s sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

**16-II.C. UTILITY ALLOWANCES [24 CFR 982.517] – NON-MTW ONLY**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

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

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 16 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

**Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

PHA Policy

The PHA has not included an allowance for air-conditioning in its schedule.

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

**Utility Allowance Revisions**

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

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

**16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

**16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127 (3 July 1995): 36490).

**Decisions Subject to Informal Review**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

* Denying listing on the PHA waiting list
* Denying or withdrawing a voucher
* Refusing to enter into a HAP contract or approve a lease
* Refusing to process or provide assistance under portability procedures
* A determination to deny a reasonable accommodation request

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

* Discretionary administrative determinations by the PHA
* General policy issues or class grievances
* A determination of the family unit size under the PHA subsidy standards
* A PHA determination not to approve an extension or suspension of a voucher term
* A PHA determination not to grant approval of the tenancy
* A PHA determination that the unit is not in compliance with the HQS
* A PHA determination that the unit is not in accordance with the HQS due to family size or composition

PHA Policy

The denial of admission letter includes information regarding LEP, VAWA and Reasonable Accommodations (refer to Appendixes B, C and D) and states that applicants may review the contents of his/her applicant file and obtain copies of the contents at his/her own expense.

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

**Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

PHA Policy

If MPHA denies admission based upon a criminal record, and upon request MPHA will provide a copy of the criminal record to the applicant. The applicant may contest the accuracy of the criminal record at the Informal Review.

MPHA will make available to the applicant family, contents of their file and allow applicant family to obtain copies of the file at the family’s expense prior to the informal review.

MPHA will comply with its LEP Plan at Appendix B; its VAWA Policy at Appendix D and its Reasonable Accommodation Policy at Appendix C.

**Scheduling an Informal Review**

PHA Policy

A request for an informal review must be made in writing and delivered to the PHA in person, by first class mail, fax or email, by the close of the business day, no later than 10 business days from the date of the PHA’s denial of assistance.

The PHA must schedule and send written notice of the informal review within 30 business days of the family’s request.

**Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

PHA Policy

The family will be given the opportunity to examine, before the informal review, any PHA documents that are directly relevant to the informal review;

The family will disclose to MPHA the documents upon which they will rely at the review, prior to the review;

Both parties are responsible for its own copying costs for any documents copied prior to the review;

Both parties may make a record of the proceedings at that party’s own expense;

Neither party is required to create or provide a written transcript of the hearing record;

Refer to Administrative Plan at 16-III. C. Informal Hearings for information regarding family opportunity to present evidence.

**Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA’s final decision, including a brief statement of the reasons for the final decision.

PHA Policy

The hearing officer decision is submitted to the PHA. The [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=37&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555) is not bound by a hearing decision:

(1) Concerning a matter for which the [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=38&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555) is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=39&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555) hearing procedures.

(2) Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

(3) If the [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=40&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555)determines that it is not bound by a hearing decision, the [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=41&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555)[must](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9f33705d8c99247bdcedb7e447314cb3&term_occur=14&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555) promptly notify the [family](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c53cf78cbf206c9ab3ef77db1a2fe6f6&term_occur=33&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.555) of the determination, and of the reasons for the determination. (24CFR 982.555 (f) 2015)

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 15 business days of the informal review when reasonably practicable, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

**16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family’s assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

* Refusing to enter into a HAP contract or approve a lease
* Terminating housing assistance payments under an outstanding HAP contract
* Refusing to process or provide assistance under portability procedures

**Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

* A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment
* A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
* A determination of the family unit size under the PHA’s subsidy standards
* A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA’s subsidy standards, or the PHA determination to deny the family’s request for exception from the 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 PHA policy and HUD rules
* A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family’s escrow account [24 CFR 984.303(i)]
* A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.
* A determination to deny portability
* A determination to deny a reasonable accommodation request

Circumstances for which an informal hearing is not required are as follows:

* Discretionary administrative determinations by the PHA
* General policy issues or class grievances
* Establishment of the PHA schedule of utility allowances for families in the program
* A PHA determination not to approve an extension or suspension of a voucher term
* A PHA determination not to approve a unit or tenancy
* A PHA determination that a unit selected by the applicant is not in compliance with the HQS
* A PHA determination that the unit is not in accordance with HQS because of family size
* A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

PHA Policy

The PHA 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)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family’s annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family’s assistance, or the denial of a family’s request for an exception to the PHA’s subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

PHA Policy

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the PHA.

A brief statement of the reasons for the decision including the regulatory reference.

The date the proposed action will take place.

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.

Information regarding LEP, VAWA and Reasonable Accommodations (refer to Appendixes C, C and D.

***Scheduling an Informal Hearing* [24 CFR 982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

PHA Policy

A request for an informal hearing must be made in writing and delivered to the PHA in person, by first class mail, by fax or by email, by the close of the business day, no later than 10 business days from the date of the PHA’s decision or notice to terminate assistance.

The PHA must schedule and send written notice of the informal hearing to the family within 30 business days of the family’s request.

The family may request to reschedule a hearing one time for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

***Pre-Hearing Right to Discovery* [24 CFR 982.555(e)]**

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA’s expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of PHA documents no later than 48 hours prior to the scheduled hearing date

The PHA must be given an opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing and make copies at its own expense. The participant must provide Section 8/HCV with any documentation that will be brought to the Hearing prior, or it will not be allowed to be used at the Hearing. The documentation must be provided to the Section 8/HCV offices no less than 3 days prior to the Hearing. The participant must provide Section 8/HCV with the names, addresses and relationship of any person that will be attending the Hearing on their behalf; prior to the Hearing, or they will NOT be allowed to attend the Hearing. The names, address and relationship of attendees MUST be provided to the Section 8/HCV offices no less than 3 days prior to the Hearing.

***Participant’s Right to Bring Counsel* [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer* [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

PHA Policy

The PHA has designated the following to serve as hearing officers:

***MPHA Hearing Officers.***

***Conflict Resolution Center Hearing Officers***

***Attendance at the Informal Hearing***

PHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A PHA representative and any witnesses for the PHA

The participant and any witnesses for the participant

The participant’s counsel or other representative

MPHA will comply with its LEP, VAWA and Reasonable Accommodation policies. See Appendixes B, D at page 5 – 5.0 Communications, and C.

***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA’s hearing procedures [24 CFR 982.555(4)(ii)].

PHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Participation of attendees will be restricted to providing statements of facts only.

Either party may make a record of the proceedings at that party’s own expense;

The participant or the MPHA will make any record available to the other party for that party’s purchase;

Neither party is required to create or provide a written transcript of the hearing record.

***Evidence* [24 CFR 982.555(e)(5)]**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence**: the testimony of witnesses

**Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence**: A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer’s decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

***Hearing Officer’s Decision* [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

**PHA Notice to the Family**: The hearing officer will determine if the reasons for the PHA’s decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

**PHA Evidence to Support the PHA Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA’s conclusion.

**Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

**Background**: A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence**: The hearing officer will summarize the evidence presented through testimony at the hearing and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA’s decision.

**Order:** The hearing report will include a statement of whether the PHA’s decision is upheld or overturned.

***Procedures for Rehearing or Further Hearing***

PHA Policy

The PHA will not consider rehearing or further hearing.

***PHA Notice of Final Decision* [24 CFR 982.555(f)]**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

PHA Policy

The PHA will mail a “Notice of Final Decision” including the hearing officer’s report, to the participant and their representative, if requested. This Notice will be sent by first-class mail. The participant will be mailed the original “Notice of Final Decision.” A copy of the “Notice of Final Decision” along with the original proof of mailing will be maintained in the PHA’s file.

**16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

**Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

As discussed in Chapters 3 and 11, 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 fund the provisions for preservation of families [24 CFR 5.514 and 5.518].
* That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
* That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
* For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

**USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 30 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 30 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 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 PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial or termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

The informal hearing procedures for applicant families are described below.

***Informal Hearing Officer***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

***Evidence***

The family must be provided the opportunity to examine and copy at the family’s expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family’s eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page copy. The family must request discovery of PHA documents no later than   
4 business days prior to hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family’s expense, and to have such person make statements on the family’s behalf.

An LEP family may request free language assistance.

***Recording and Transcript***

The family is entitled to have the hearing recorded. A transcript of the hearing may, but is not required to be, provided by the responsible party.

***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 30 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

* The application for assistance
* The form completed by the family for income reexamination
* Photocopies of any original documents, including original USCIS documents
* The signed verification consent form
* The USCIS verification results
* The request for an USCIS appeal
* The final USCIS determination
* The request for an informal hearing
* The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

**16-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA’s policies for recovery of monies owed to the PHA by families or owners.

PHA Policy

When an action or inaction of an owner or participant solely or in part results in an overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA may 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 PHA, the PHA may utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

MN Revenue Recapture Act, Minn. Stat Section 270A.01-.12 (2015)

**16-IV.B. REPAYMENT POLICY**

**Owner Debts to the PHA**

PHA Policy

If the owner is entitled to future HAP payments, the PHA 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, An owner must repay any amount due to the PHA within 10 days of MPHA’s written demand for repayment.

MPHA may offer a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the MPHA will ban the owner from future participation in the program and pursue other modes of collection.

**Family Debts to the PHA**

PHA Policy

A family must pay to MPHA any amount due to MPHA. If the family is unable to repay the debt within 30 days, the PHA may offer a repayment agreement for amounts owed that are less than $5,000 in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

**Repayment Agreement [24 CFR 792.103]**

The term r*epayment agreement* refers to a formal document signed by a tenant or owner and MPHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

**Repayment Agreement Guidelines**

***Down Payment Requirement***

PHA Policy

MPHA will not require a family to make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.

***Payment Thresholds***

PHA Policy

MPHA will include all overpayments due and owing in determining the threshold of $5,000.

MPHA will not offer a repayment agreement if the amount of the overpayment is $5,000 or greater.

The repayment agreement may not exceed 24 months without the approval of Management. If the amount of the overpayment is $5,000 or more and is due in part or in total to the participant’s conduct, MPHA will terminate rental assistance for cause regardless of whether the overpayment is paid. Cause may include when the participant: a) did not report or had under-reported income; b) provided incomplete or inaccurate information or misrepresented any information on an income reporting document; c) did not inform MPHA in writing that the amount of income on the Rent Calculation Summary was incorrect; and other program violations.

If a participant owes less than $5,000 in an overpayment, MPHA may offer a repayment agreement to the participant. If the participant does not sign a repayment agreement within 30 days, MPHA will terminate the rental assistance to the participant for failure to cure the debt.

The repayment agreement shall state:

1. The section in the Plan, or Section 8 information packet that the he participant violated;
2. The monthly retroactive payment is in addition to the family’s regular rent contribution and is payable to MPHA;
3. That a late or missed payment is a default of the agreement and may result in termination of rental assistance;
4. That all payments shall be at least $50 and be rounded to the nearest dollar; and
5. The last payment should be the remaining balance on the agreement.

***Execution of the Agreement***

PHA Policy

The head of household and spouse/cohead (if applicable) must sign the repayment agreement. We will comply with our LEP, VAWA and Reasonable Accommodation policies. Refer to Appendixes B, C and D.

The PHA will include the language block is on all repayment agreements.

***Due Dates***

PHA Policy

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

***Non-Payment***

PHA Policy

If the family fails to pay, the family will be in default on the repayment agreement and MPHA may terminate assistance in accordance with the policies in Chapter 12.

***No Offer of Repayment Agreement***

PHA Policy

The PHA generally 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 on which the PHA may terminate assistance because of a family’s action or failure to act
* A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family’s monthly share of the rent to owner
* A statement that the terms of the repayment agreement may be renegotiated if the family’s income decreases or increases
* A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

PART V: RECORD KEEPING

**16-V.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual’s privacy rights.

**16-V.B. RECORD RETENTION [24 CFR 982.158]**

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

* A copy of the executed lease;
* The HAP contract; and
* The application from the family.

In addition, the PHA must keep the following records for at least three years:

* Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
* An application from each ineligible family and notice that the applicant is not eligible;
* HUD-required reports;
* Unit inspection reports;
* Lead-based paint records as required by 24 CFR 35, Subpart B.
* Accounts and other records supporting PHA budget and financial statements for the program;
* Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
* Other records specified by HUD.

If an informal hearing to establish a family’s citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

**16-V.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

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

**Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

**Earned Income Verification (EIV) Records**

PHAs that access UIV data through HUD’s Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

PHA Policy

Prior to utilizing HUD’s EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

**Criminal Records**

The PHA may disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially and not misused or improperly disseminated. MPHA will destroy the such records once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local law enforcement agency is maintained confidentially and not misused or improperly disseminated,. MPHA will destroy such records, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28].

The requirements is this section do not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

**Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person’s disability. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

**VAWA**

PHA Policy

MPHA will comply with its VAWA policy. Refer to Appendix D.

**PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

**16-VI.A. OVERVIEW**

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

**16-VI.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

**16-VI.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

PHA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.

**PART VII: DETERMINATION OF INSUFFICIENT FUNDING**

**16-VII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA’s ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

**16-VII.B. METHODOLOGY**

PHA Policy

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the PHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.

Chapter 17

PROJECT-BASED VOUCHERS

**INTRODUCTION**

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including 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 number of vouchers, plus an additional 10 percent of its’ vouchers to assist certain types of households (formerly homeless people, Veterans, persons with disabilities, or elderly persons) or in an area where vouchers are difficult to use. PBVs attached to certain types of previously federally assisted or rent-restricted units are exempt from these limitations. . 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 budget authority 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 budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

**17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE   
[24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the 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).

**PART II: PBV OWNER PROPOSALS**

**17-II.A. OVERVIEW**

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 PBV’s until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54]

**17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]**

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

* PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
* The PHA may select 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.
* The PHA may commit PBVs to a property owned or controlled by the PHA without competition.

**Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]**

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

PHA Policy

PHA Request for Proposals for Rehabilitated and Newly Constructed Units will adhere to MPHA Procurement Policies

PHA Requests for Proposals for Existing Housing Units will adhere to MPHA Procurement Policies

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program will adhere to MPHA Procurement Policies

**PHA-owned Units [24 CFR 983.51(e) and 983.59]**

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 initial contract rent must be approved by an independent entity. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the 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.

PHA Policy

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.

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.

***High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]***

The PHA may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the PHA determination. The PHA may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

PHA Policy

The PHA will use high rise elevator projects for families with children. The PHA has determined that there is no practical alternative to the use of high-rise elevator projects for families with children. HUD agrees and has approved the PHA determination.

**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 an AHAP 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]**

Vouchers may be project based in 25 units in a project, or 25% of the units, whichever is greater.

**Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)]**

Exceptions are modified prospectively to include units housing the elderly or other households eligible for supportive services that are made available to the assisted residents of the project, or located in areas where vouchers are difficult to use.

In census tracts with a poverty rate of 20% or less, vouchers may be project based in 25 units or 40% of the units in a project, whichever is greater.

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. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the 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.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

PHA Policy

The PHA will develop housing for occupancy by families in need of services. This may include disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) program. The families must receive the services, or successfully complete the service program, to be eligible for continued occupancy. Families that do not continue to receive the services or complete the required service program will be terminated in accordance with the PHA policies in Section 12-II.F. The following types of services will be provided depending on the needs of the family:

Transportation for activities such as grocery shopping, attending medical and dental appointments;

Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Training in housekeeping and homemaking activities;

Family budgeting;

Child care;

Parenting skills;

Computer labs; and

Work skills development and job training.

**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 project. 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 impose a 50 percent cap on excepted units in multifamily projects. This cap may be lifted to 100 percent for projects with fewer than 25 units.

**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. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

**Pre-HAP Contract Inspections [24 CFR 983.103(b)]**

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

**Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

**Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each project to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect 100 percent of the contract units in the project.

**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 construction or rehabilitation has started 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

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 project;
* 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). 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]**

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 twenty years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 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)]***

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.

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]

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.

**Remedies for HQS Violations [24 CFR 983.20 8(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 [24 CFR 983.206(b)]**

At the PHA’s discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of the PHA’s PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

PHA Policy

The PHA will consider adding contract units to the HAP contract when the PHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

**17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.20 7(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.

Upon termination or expiration of a contract, families have the right to use their vouchers to remain in the property.

**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 983.20 8(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 project 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

Owners are required to report upcoming and actual vacancies to MPHA within ten (10) days upon learning of the vacancy. Supporting documentation must be submitted with the vacancy notice (for example: mutual agreements of lease termination, lease term notices to vacate, unlawful detainers). The PHA will refer applicants from the PHA waitlist and or the project owner will select families to occupy available units, and may apply the same screening criteria used to select non-voucher tenants.

MPHA will not provide assistance for vacant units. If the owner allows ineligible families to occupy units eligible for assistance under the project-based voucher program, or is unwilling or unable to fill vacant units after 120 days, MPHA will amend the HAP contract to exclude the vacant units.

**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 accordance to these requirements, MPHA recognizes that through its various partnerships with project owners and under the Project Based program there are owners who offer program components that provide housing and services specifically to individuals and families who have recent criminal histories and/or history of other related criminal or drug-related criminal conduct. In those specific instances where program components allow for participants with criminal histories and/or other related behaviors and the applicant meets all other MPHA and other requirements of MPHA’s Partner for eligibility, including required participation in supportive services offered by the Project Based Housing Program, MPHA may permit the applicant to participate in the specific Project Based Housing Program. After one year of participation, should the individual or family wish to obtain a tenant based voucher, the individual or family would be required to meet the same “MPHA Applicant Screening Guidelines” as all other tenant based voucher waitlist applicants are required to meet. The PBV family MUST remain in the PBV unit until the issuance of the tenant based voucher.

**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 use one waiting list for both the tenant-based and project-based voucher programs.

In order to minimize displacement of “in-place families”, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on MPHA’s waiting list and, once its continued eligibility is determined, given and absolute preference and referred to the project owner for an appropriately sized PBV unit in the project. (2). MPHA may deny assistance under circumstances specified at 24 CFR 983.251 (b). Admission of in-place families is not subject to income-targeting under 24 CFR 982.201 (b) (2) (i), and such families must be referred to the owner from MPHA’s waiting list. MPHA shall give such families priority for admission to the PBV program. This protection does not apply to families not eligible to participate in the program on the proposal selection date.

**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)]**

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.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

* With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
* Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
* For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

PHA Policy

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). Additional preferences have been established for all project based units.

In order to minimize displacement of “in-place families”, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on MPHA’s waiting list and, once its continued eligibility is determined, given and absolute preference and referred to the project owner for an appropriately sized PBV unit in the project. (2). MPHA may deny assistance under circumstances specified at 24 CFR 983.251 (b). Admission of in-place families is not subject to income-targeting under 24 CFR 982.201 (b) (2) (i), and such families must be referred to the owner from MPHA’s waiting list. MPHA shall give such families priority for admission to the PBV program. This protection does not apply to families not eligible to participate in the program on the proposal selection date.

**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.

PHA Policy

MPHA will comply with its LEP, VAWA and Reasonable Accommodations policies. Refer to Appendixes B, C and D.

**17-VI.F. OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant’s ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

**Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA’s waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA’s subsidy standards.

**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 10 business days of learning about any vacancy or expected vacancy.

The PHA may establish owner-maintained site-based waiting lists. (HOTMA)\*\*Opportunities for Applicants on Tenant Based Voucher Waitlist

The PHA will maintain information about each Project Based Community on the PHA’s website. The information will include project name and address, contact name and phone number, the project’s target population, eligibility criteria and supportive services provided at the community.

Tenant based waitlist applicants will be advised of their opportunity for housing at project based communities and will be directed to the PHA’s website. This information will be provided at several different times such as waitlist updates/purges, when they inquire about status on the waitlist, etc.

Tenant based voucher waitlist applicants will be advised to contact the projects directly to apply to each project for which they are qualified. The project based community must confirm if any applicant on their waitlist is also on the PHA’s waitlist. The project based community must accept an application from the tenant based voucher waitlist applicant, even if their waitlist is closed.

Project based communities must give first priority for available units to persons who are on their waitlist and have been confirmed to be on the PHA’s tenant based voucher waitlist. If there are multiple applicants that meet this criteria, priority will be given to the applicant who has the most preference points, according to the PHA’s policies.

If the applicant is offered a unit and it is subsequently declined by the PHA’s waitlist applicant or they are found to be ineligible for the project, they will be removed from the project’s waitlist; however, they will remain on the PHA’s tenant based waitlist.

\*\*Opportunities for (FUP) Youth Participants

Family Unification Program (FUP) youth participants will be advised of their opportunity for housing at project based communities and will be directed to the PHA’s website. This information will be provided at several different times such as intake, annual recertification and near the end of their 18 month program participation.

Family Unification Program (FUP) youth participants will be advised to contact the projects directly to apply to each project for which they are qualified. The project based community must confirm if any applicant on their waitlist is a Family Unification Program (FUP) youth participant. The project based community must accept an application from the family unification program (FUP) youth participant, even if their waitlist is closed.

Project based communities must give first priority for available units to persons who are on their waitlist and have been confirmed to be a Family Unification Program (FUP) youth participant. If there are multiple applicants that meet this criteria, priority will be given to the applicant whose family unification program (FUP) assistance will end earliest.

If the family unification program (FUP) youth participant is offered a unit and it is subsequently declined by the family unification program (FUP) youth participant or they are found to be ineligible for the project, they will be removed from the project’s waitlist.

**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.

PHA Policy

MPHA will comply with its VAWA policy. Refer to Appendix D.

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.

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants. 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 may 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.

***Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]***

If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

The 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 90 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

See Chapter 3-I.L. for policy on absent family members.

**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 983.258]**

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 prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance form the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

**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

Overcrowded, under-occupied, and accessible units – MPHA subsidy standards determines the appropriate unit size for family size and composition. If MPHA determines that a family is occupying a:

* Wrong sized unit
* Unit with accessible features that the family does not require, and the unit is needed by a family that requires the accessibility features.

MPHA will promptly notify the family and the owner that the situation must be corrected. The family must move to an appropriate sized unit within the project and/or the family not in need of accessible features must move to another unit within the project so that the accessible features can be utilized by the family in need of such features. MPHA may utilize other project based communities within its portfolio of project based communities in the event that an appropriate unit is not available within the project.

Continued housing assistance will be offered to the family that is being asked to change units. In the event that the family refuses to move to a comparable unit within the project or other available project based community within a reasonable amount of time as determined by MPHA, continued assistance will be denied. MPHA will also terminate housing assistance payments to the Owner.

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 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

* In a single-family project;
* Specifically made available for elderly and/or disabled families; or
* Specifically made available for families receiving supportive services as defined by the PHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the 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.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per building cap exception (e.g., a family that does not successfully complete its FSS contract of participation or supportive services requirements, or a family that is no longer elderly or disabled due to a change in family composition where the PHA does not exercise discretion to allow the family to remain in the excepted unit), 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.

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 or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly or disabled family member or long-term or permanent hospitalization or nursing care), the elderly or disabled 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.

When the PHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception, 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.

The PHA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to the PHA, the PHA will amend the HAP contract to reduce the total number of units under contract.

**PART VIII: DETERMINING RENT TO OWNER**

**17-VIII.A. OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner’s request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

**17-VIII.B. RENT LIMITS [24 CFR 983.301]**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

* An amount determined by the 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.

**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 five percent or greater decrease in the published FMR.

**MTW Policy— Redetermination of Rent**

MPHA will conduct reasonable rent determinations at the time of initial lease-up, at the time of owner rent increase, and at all other times deemed appropriate by MPHA.

***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***

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

***Notice of Rent Change***

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

PHA Policy

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

The PHA may decrease the contract rent below the initial rent.

**PHA-owned Units [24 CFR 983.301(g)]**

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

**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 five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
* The 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.

**MTW Policy—When Rent Reasonableness Determinations are Required**

MPHA will determine the reasonable rent for a unit receiving PBV assistance:

* At the beginning of the HAP contract;
* The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
* Whenever the owner requests a rent adjustment;
* There is any other change that may substantially affect the reasonable rent; and/or
* At any time deemed appropriate by MPHA.

**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

MPHA does not pay vacancy loss.

**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 may make utility reimbursements to the family.

**17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

**Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

**Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

**Chapter 18**

**FAMILY SELF SUFFICIENCY (FSS)**

**18-I.A. PROGRAM OBJECTIVES [24CFR 984.102]**

The objective of the FSS program is to reduce the dependency of low-income families on public or welfare assistance and on Section 8, low income public housing, or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and social skills necessary to achieve self-sufficiency, as defined in § 984.103 of this subpart A. HUD measures the success of a PHA’s FSS program not only by the number of families who achieve self-sufficiency, but also by “the number of FSS families who, as a result of participation in the program, have family members who obtain their first job, or who obtain higher paying jobs; no longer need benefits received under one or more welfare programs; obtain a high school diploma or higher education degree; or accomplish similar goals that will assist the family in obtaining economic independence.”

The Minneapolis Public Housing Authority implemented its Family Self Sufficiency (FSS) Program for Housing Choice Voucher Participants in 1991. We work with social service agencies, schools, businesses, and other local partners to help FSS Participants access services including but not limited to:

* child care
* transportation
* education and training
* employment
* home-ownership counseling

**18-I.B. ELIGIBILITY AND RECRUITMENT**

The FSS Program is closed for applications as of January 1, 2014. MPHA periodically surveys all HCV participants to determine their interest in the program. The Community Services Coordinator for FSS discusses the FSS Program opportunity when applicants, participants and Family Unification Program Youth (FUPY) attend their initial and transfer voucher briefings. The HCV Eligibility Technicians discusses the FSS opportunity with participants and FUPY during their annual Recertification appointments. Applicants and participants who are interested in the program are invited to schedule an appointment to meet with the Community Services Coordinator to make application for the FSS Program.

**18-I.C. NEEDS ASSESSMENT, INDIVIDUAL TRAINING AND SERVICES PLAN AND FSS CONTRACT**

The PHA employs a Community Services Coordinator for FSS, whose primary responsibility is to work with FSS Families. The Community Services Coordinator completes a needs assessment of every participating FSS individual, to determine the services needed for the individual to achieve the goal of self-sufficiency. The Coordinator uses the needs assessment to develop a Individual Training and Services Plan (hereafter called a Service Plan) for the family. The Service Plan identifies the family’s “ultimate goal”, along with interim goals to meet the “ultimate” goal; outlines the activities the family needs to undertake to meet the interim goals; identifies the services the family may require to assist in completing the activities, and estimates time frames for completing activities, interim goals, and achievement of the family’s “ultimate” goal. Upon completion of Service Plan, the CSC Coordinator will prepare the family's FSS Contract of Participation. The FSS Contract includes the effective date, term, responsibilities of the Family and of the PHA and provisions for establishing an escrow account. After the Community Services Coordinator meets with the family and explains the Service Plan and FSS Contract, the family commits by signing the plan and the contract. The term of the FSS Contract is for five years and may be extended for up to two years.

**18-I.D. MONITORING AND CASE MANAGEMENT**

The Community Services Coordinator monitors the Service Plan during the term of the FSS

Contract and provides case management and program services to the family. The Community Services Coordinator links the FSS Participant Family with services and provides support to help the Family achieve its goals. Individual appointments are scheduled as necessary and the FSS Coordinator is also available by telephone for crisis intervention to help the Family achieve the goals set forth in the FSS Contract. FSS Participants are required to keep at least 2 appointments per year, although many Participants will meet with their FSS Coordinator on a much more frequent basis. Workshops are held for FSS Participants throughout the year and include topics such as budgeting, credit repair, employment search, educational opportunities, owner and neighbor relations, and homeownership.

**18-I.E. ESCROW ACCOUNT**

The FSS Program requires the PHA to establish and maintain an interest bearing FSS escrow account for each participating family. An escrow credit, based on increases in earned income of the family, is credited to this account by the PHA during the term of the FSS contract. Escrow deposits are made by the PHA on the assumption of rent paid by the tenant. If a participating family does not pay their rent to their landlord the escrow funds may be forfeited because failure to comply with the lease is a family obligation under the FSS program. Nonpayment of rent is grounds for terminating a family's FSS participation and subsidy and forfeiture of the escrow. The Community Services Coordinator will provide each FSS Participant Family with an annual accounting of the status of their escrow funds at the end of each fiscal year.

The PHA may make a portion of this escrow account available to the family during the term of the contract to enable the family to complete an interim goal, such as education. If the family completes the contract and no member of the family is receiving cash welfare assistance, the amount of the FSS account will be paid to the head of the family. If the PHA terminates the FSS contract, or if the family fails to complete the contract before its expiration, the family’s FSS escrow funds are forfeited. If an FSS participant is terminated from the HCV Program at any point during the term of the FSS contract, or if the participant family is still receiving ‘cash assistance’ (welfare benefits) at the end of the term of the Contract of Participation, the family's accumulated escrow account will be returned to MPHA. (Welfare benefits, for purposes of the FSS program only, means income assistance from Federal or State welfare programs. Welfare assistance does NOT include: Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), child support, Food Stamps and emergency rental and utilities assistance, or other payments from Social Security (24 CFR Ch. IX §984.105).)

**18-I.F. FSS AND PORTABILITY**

An FSS Family that chooses to move outside of Minneapolis must meet with the Community Services Coordinator to determine the best course for their FSS participation. The following options may be available:

* The family continues in MPHA's FSS Program if they are able to maintain services and activities outlined in the Service Plan.
* The family may enter the FSS Program of the Receiving Housing Authority if this option is available. The family must demonstrate that they will be able to complete the FSS Plan in the new area. The family would enter into an FSS Contract with the Receiving Housing Authority for the term remaining on the family's contract with the MPHA. The MPHA will then terminate its contract with the family. If the receiving housing authority does not have a FSS Program, or has no opening within its FSS Program, or the family decides not to continue in the FSS Program, MPHA will terminate its FSS Contract with the family and any escrow funds will revert back to MPHA.

**18-I.G. FSS CONTRACT COMPLIANCE**

The Service Plan will be monitored by the Community Services Coordinator. A Family Self Sufficiency Participant is required to meet with the Community Services Coordinator at least twice a year to determine if the family is complying with their plan. A FSS Participant who has not kept an appointment with the FSS Coordinator for one (1) year will be placed on probation. A FSS Participant who does not keep appointments for two (2) years will be terminated from the FSS Program. An FSS Participant must comply with the terms of the Lease, including payment of their rent share to the landlord. If the Community Services Coordinator determines that the family is not keeping appointments, is failing to actively participate in activities according to the time frames specified in their contract or if the family is in violation of any provision of their Contract of Participation, a conference will be scheduled to discuss the violation(s). At the conference, the Community Services Coordinator will attempt to resolve the matter by obtaining an understanding of why the participant family is not in compliance and determine if adjustments to goals, services, and/or the timetables are necessary and/or appropriate in an effort to help the participant family complete their FSS Contract. The participant family will be advised that the FSS Contract can be terminated and any escrow funds will be forfeited upon further violations of the FSS Contract. If the Community Services Coordinator is unable to reach a satisfactory resolution with the family, additional administrative action may be necessary. If additional violations of the FSS Contract occur, or the conference does not successfully resolve the matter, the Coordinator will propose termination of the FSS Contract. A letter proposing termination will be sent to the family by certified mail. The letter will state the reason(s) for the proposed termination and inform the participant that (s) he has the right to request a conference if there is disagreement regarding the termination. The participant will be advised to put the request for a conference into writing within ten (10) days to the Community Services Coordinator.

At the conference, the participant may offer reasons to not terminate the FSS Contract. The Coordinator will discuss these reasons with his or her supervisor and provide recommendation to the supervisor. After the review with the supervisor, the participant family will be notified in writing within ten (10) business days of the decision to terminate the FSS Contract or to further modify the plan. If the decision is to terminate, the participant family will receive a 30-day notice of this action and will forfeit all funds in its escrow account. The MPHA will not terminate HCV assistance because of the participant family's failure to meet FSS responsibilities. Section 8 Assistance will be terminated only as provided by HUD and the MPHA in the manner applied to all Section 8 subsidy holders.

**18-I.H. FSS CONTRACT COMPLETION**

Completion of the FSS Contract occurs when:

(a) The Family has fulfilled all of its responsibilities under the contract; or (b) 30% of the Family's monthly-adjusted income is equal to or greater than the Fair Market Rent amount for the unit size for which the Family is eligible, or the Gross rent for the unit rented; or (c) at any time during the term of the contract of Participation, the MPHA may determine that the Family has met its obligations under the FSS Contract. At that time, the amount in the Family's escrow account, less any amount owed to the MPHA, will be paid to the Head of the Household; or (d) the MPHA reserves the right to terminate the FSS Contract of Participation before its expiration date under the following circumstances:

(1) On determination that the Head of Household or participating Family member failed to fulfill the contract or any extensions thereof;

(2) The Family withdraws from the FSS Program;

(3) By mutual consent of both parties;

(4) By operation of law; or

(5) When the participating Family is no longer receiving Section 8 Assistance, including termination from the Section 8 HCV Program for violation of family obligations.

(6) The MPHA may declare the Contract null and void if resources and services necessary to complete the contract are not available. If resources and services aren’t available, can MPHA may release the escrow to the tenant

**Chapter 19**

**HUD-VASH**

**19-I.A. OVERVIEW**

The HUD-VASH Program is a collaborative effort between the US Dept of Housing and Urban Development and the Veterans Affairs Department. It’s a national initiative that provides permanent housing and supportive services to homeless veterans.  The MPHA will administer the HUD Veterans Affairs Supportive Housing Vouchers (“HUD-VASH”) in accordance with this Administrative Plan, 24 CFR part 982, and subsequent HUD notices, guidance, or regulations that amends or supersedes Docket No. FR-5213-N-01. MPHA partners with Housing the Minneapolis Veterans Affairs Medical Center (VAMC).  The goal of the Program is to combine Section 8 rental assistance vouchers with case management and clinical services provided by the Veterans Affairs Department at its medical centers to enable homeless veterans to re-integrate in the community to lead healthy, productive lives.

**19-I.B. ELIGIBILITY AND SELECTION**

The Minneapolis VAMC will screen homeless veterans for eligibility for the HUD-VASH Program, in accordance with its screening criteria, except for income eligibility and sex offender status. Eligible homeless veterans that agree to participate in case management will be referred to MPHA for voucher issuance. MPHA will determine if income eligible in accordance with 24 CFR 982.201 and section 3.11.A of this Administrative plan, and may deny if not income eligible. Though MPHA is not required to include HUD-VASH Vouchers in the income targeting requirements, the MPHA may choose to include the admission of extremely low income HUD-VASH families in its income targeting numbers for the fiscal year in which the HUD-VASH families are admitted.

The MPHA will screen for sex offender status and will deny admission if the homeless veteran is a sex-offender with a lifetime registration requirement. If another family member in the household is the lifetime registrant – family may be eligible for voucher if the family member subject to the registration requirement is removed from the household. No other eligibility priorities or preferences are applicable and the MPHA shall not deny HUD-VASH applicants admission for any other grounds.

**19-I.C. INTITIAL TERM OF THE VOUCHER**

The HUD-VASH voucher must have an initial search term of 120 days. See Section 5-II.E for all the policies regarding initial term extension and suspension and expiration.

**19-I.D INITIAL LEASE TERM**

Initial lease terms may be less than one-year for HUD-VASH Participants.

**19- I.E. ELIGIBLE HOUSING**

In addition to private market rental units, HUD-VASH Families will be permitted to live on the grounds of a VAMC.

**19-I.F CASE MANAGEMENT REQUIREMENTS**

A condition of eligibility for a HUD-VASH voucher is that the VASH participant must receive case management services as verified by the VAMC. The VAMC screens homeless Veterans to determine eligibility for the HUD-VASH program as established by Veteran’s Affairs national office; identifies the social service and medical need of the homeless veteran; ensures that the veteran receive ongoing case management, health services, and other supportive services as identified; and maintains records as required by HUD and Veterans Affairs. A HUD VASH family’s HCV assistance must be terminated if the family refuses, without good cause, to participate in required case management as determined by the VAMC.

**19-I. G. PORTABILITY OF HUD-VASH VOUCHERS**

The HUD-VASH Family may initially lease up, or move under portability provisions. If the Minneapolis VAMC (the “initial PHA’s partnering VAMC”) will still be able to provide the needed case management services because of the proximity, the receiving PHA must process the move in accordance with the Portability policies of 24 CFR 982.355 and MPHA’s policies in Chapter 10 of this Administrative Plan. However, the receiving PHA must bill the initial PHA; the receiving PHA does not have the option to absorb the HUD-VASH Family under this situation.

If a VASH Family wants to move where it will not be possible for the initial PHA’s partnering VAMC to provide case management services, the VAMC must first determine whether the HUD-VASH Family could be served by another VAMC that is participating in the program, and the receiving PHA must have a HUD-VASH voucher available for this Family. If the above conditions are met, the VASH Family must be absorbed by the receiving PHA. Upon absorption, the MPHA’s HUD-VASH voucher will be available to lease to a new HUD-VASH eligible Family referred by the partnering VAMC.

**19-I.H. TRANSFER FROM HUD-VASH TO TENANT BASED VOUCHER ASSISTANCE**

If the VAMC determines that the VASH Family no longer requires case management the MPHA may offer the Family a regular tenant-based voucher in the tenant based program to free up the HUD-VASH voucher for another homeless veteran family. The offer of tenant-based assistance is pending funding availability and a VASH family that is offered a regular tenant-based voucher will be subject to the eligibility requirements outlined in Chapter 3 of this Administrative Plan.

**19-I.I. PROJECT BASED ASSISTANCE OF HUD-VASH VOUCHERS**

A request to Project Base a HUD VASH Voucher must have the support of the VAMC and a proposal must be made to HUD. The MPGA will consider VASH Voucher Project Based requests on a case by case accordance with 24 CFR Part 983 and Notice PIH 2009-11 (HA), Project-Basing HUD-Veterans Affairs Supportive Housing Vouchers.

**19-I.J SEMAP, VMS AND MTW REPORTING**

HUD-VASH vouchers are administered in accordance with HUD-VASH notices. The VASH Vouchers are monitored in VMS separately from all other Tenant Based vouchers and they will not be included in the SEMAP leasing indicator denominator because they are dependent on referrals from VAMC. HUD VASH Vouchers are not fungible under MPHA’s MTW agreement and must be reported separately from MTW vouchers. The code “VASH” will be recorded in section 2n of the HUD-50058 form to indicate in PIC that the Family is a HUD-VASH Participant.

**GLOSSARY**

**A. ACRONYMS USED IN SUBSIDIZED HOUSING**

**AAF** Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.

**ACC** Annual Contributions Contract

**ADA** Americans with Disabilities Act of 1990

**BR** Bedroom

**CDBG** Community Development Block Grant

**CFR** Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.

**CPI** Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.

**EID** Earned income disallowance

**EIV** Enterprise Income Verification

**FDIC** Federal Deposit Insurance Corporation

**FHA** Federal Housing Administration

**FHEO** Fair Housing and Equal Opportunity (HUD Office of)

**FICA** Federal Insurance Contributions Act - Social Security taxes

**FMR** Fair Market Rent

**FR** Federal Register

**FSS** Family Self-Sufficiency (Program)

**FY** Fiscal Year

**FYE** Fiscal Year End

**GAO** Government Accounting Office

**GR** Gross Rent

**HA** Housing authority or housing agency

**HAP** Housing Assistance Payment

**HCV** Housing choice voucher

**HQS** Housing Quality Standards

**HUD** The Department of Housing and Urban Development or its designee.

**HUDCLIPS** HUD Client Information and Policy System

**IPA** Independent Public Accountant

**IRA** Individual Retirement Account

**IRS** Internal Revenue Service

**JTPA** Job Training Partnership Act

**LBP** Lead-based paint

**LEP** Limited English Proficiency

**MSA** Metropolitan Statistical Area established by the U.S. Census Bureau

**MTCS** Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)

**MTW** Moving to Work

**NOFA** Notice of funding availability

**OGC** HUD's Office of General Counsel

**OIG** HUD’s Office of Inspector General

**OMB** Office of Management and Budget

**PASS** Plan to Achieve Self-Support

**PHA** PublicHousing Agency

**PIC** PIH Information Center

**PIH** (HUD Office of) Public and Indian Housing

**PS** Payment Standard

**QC** Quality Control

**REAC** (HUD) Real Estate Assessment Center

**RFP** Request for proposals

**RFP** Request for Proposals

**RFTA** Request for tenancy approval

**RIGI** Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)

**SEMAP** Section 8 Management Assessment Program

**SRO** Single Room Occupancy

**SSA** Social Security Administration

**SSI** Supplemental security income

**SWICA** State wage information collection agency

**TANF** Temporary assistance for needy families

**TPV** Tenant protection vouchers

**TR** Tenant Rent

**TTP** Total Tenant Payment

**UA** Utility Allowance

**UFAS** Uniform Federal Accessibility Standards

**UIV** Upfront income verification

**URP** Utility reimbursement payment

**VAWA** Violence Against Women Reauthorization Act of 2013

**B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING**

**1937 ACT.** The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

**ADMINISTRATIVE PLAN.** The HUD required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

**ABSORPTION.** In portability, the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE").** Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADA.** Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

**ADJUSTED INCOME.** Annual income, less allowable HUD deductions.

**ADMINISTRATIVE FEE.** Fee paid by HUD to the PHA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve").** Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

**ADMISSION.** The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

**AFFILIATED INDIVIDUAL.** Please see VAWA Policy.

**ANNUAL BUDGET AUTHORITY.** The maximum annual payment by HUD to a PHA for a funding increment.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC).** A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

**ANNUAL INCOME.** The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**ANNUAL INCOME AFTER ALLOWANCES.** The Annual Income (described above) less the HUD-approved allowances.

**APPLICANT.** (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

**"AS-PAID" STATES.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**ASSETS.** (See Net Family Assets.)

**ASSISTED TENANT.** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

**BUDGET AUTHORITY.** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**CERTIFICATE.** A Certificate issued by the PHA under the Section 8 pre-merger certificate program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

**CERTIFICATE PROGRAM.** Pre-merger rental certificate program.

**CHILD CARE EXPENSES.** Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

**CO-HEAD.** An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

**COMMON SPACE.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**CONGREGATE HOUSING.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

**CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT.** (Consolidated ACC). See 24 CFR 982.151.

**CONTIGUOUS MSA.** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**CONTINUOUSLY ASSISTED.** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**CONTRACT.** (See Housing Assistance Payments Contract.)

**COOPERATIVE.** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: See 24 CFR 982.619.

**COVERED FAMILIES.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**DATING VIOLENCE.** Please see VAWA Policy.

**DEPENDENT.** A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

**DISABILITY ASSISTANCE EXPENSE.** Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

**DISABLED 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 PERSON/FAMILY.** A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

**DOMICILE.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**DOMESTIC VIOLENCE.** Please see VAWA Policy.

**DRUG-RELATED CRIMINAL ACTIVITY.** The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

**DRUG TRAFFICKING.** The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**ECONOMIC SELF-SUFFICIENCY PROGRAM.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

**ELDERLY FAMILY.** A family whose head, 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 HOUSEHOLD.** A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

**ELDERLY PERSON.** A person who is at least 62 years old.

**ELIGIBILITY INCOME.** May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY** (Family)**.** A family is defined by the PHA in the administrative Plan, which is approved by HUD.

**EXCEPTIONAL MEDICAL OR OTHER EXPENSES.** Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

**EXCEPTION RENT.** In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

**EXCESS MEDICAL EXPENSES.** Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

**EXTREMELY LOW-INCOME FAMILY.** A family whose annual income does not exceed the higher of the Federal Poverty Level or 30 percent of the median income for the area, as determined by HUD. **FAIR HOUSING ACT.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

**FAIR MARKET RENT (FMR).** The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the*Federal Register.*

**FAMILY.** A person or group of persons, as determined by the PHA consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program. See discussion of family composition at section 982.201(c).

**FAMILY OF VETERAN OR SERVICE PERSON.** A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY RENT TO OWNER.** In the voucher program, the portion of the rent to owner paid by the family.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM).** The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY SHARE.** The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

**FMR/EXCEPTION RENT.** The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

**FOSTER CHILD CARE PAYMENT.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL-TIME STUDENT.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

**GROUP HOME.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**HAP CONTRACT.** (SeeHousing Assistance Payments contract.)

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSEHOLD ADD-ON.** A household add-on is not a member of the original family and is not a dependent of the voucher holder. A household add-on will not increase the voucher size for which a voucher holder qualifies without the household add-on. If a voucher holder voluntarily gives up the voucher rental subsidy, the household add-on does not have any rights to the voucher.

**HOUSING AGENCY.** 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 AND COMMUNITY DEVELOPMENT ACT OF 1974.** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT.** The monthly assistance payment by a PHA. The total assistance payment consists of:

A payment to the owner for rent to owner under the family's lease.

An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

**HOUSING ASSISTANCE PAYMENTS CONTRACT.** (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING ASSISTANCE PLAN.** (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING QUALITY STANDARDS (HQS).** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD.** The Department of Housing and Urban Development.

**HUD REQUIREMENTS.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

**IMPUTED ASSET.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**IMPUTED INCOME.** HUD passbook rate x total cash value of assets. Calculation used when assets exceed $5,000.

**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.

**INDIAN.** Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

**INITIAL PHA.** In portability, the term refers to both:

A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**INITIAL PAYMENT STANDARD.** The payment standard at the beginning of the HAP contract term.

**INITIAL RENT TO OWNER.** The rent to owner at the beginning of the HAP contract term.

**INTEREST REDUCTION SUBSIDIES.** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**JURISDICTION.** The area in which the PHA has authority under State and local law to administer the program.

**LANDLORD.** This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**LEASE.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

**LEASE ADDENDUM.** For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

**LEP (Limited English Proficiency).** See Appendix B in Table of Contents

**LIVE-IN AIDE.** A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

**LOCAL PREFERENCE.** A preference used by the PHA to select among applicant families.

**LOW-INCOME FAMILY.** A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low income families.

**MANUFACTURED HOME.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

**MANUFACTURED HOME SPACE.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

**MARKET RENT.** The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

**MEDICAL EXPENSES.** Those total medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly 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 (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MIXED FAMILY.** A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

**MONTHLY ADJUSTED INCOME.** 1/12 of the Annual Income after Allowances or Adjusted Income.

**MONTHLY INCOME.** 1/12 of the Annual Income.

**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.

**NEGATIVE RENT.** Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS.** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

**NET FAMILY CONTRIBUTION.** Former name for Tenant Rent.

**NON CITIZEN.** A person who is neither a citizen nor a national of the United States.

**OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards]** Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OVER-FMR TENANCY (OFTO).** In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

**OWNER.** Any persons or entity having the legal right to lease or sublease a unit to a participant.

**PARTICIPANT.** A family that has been admitted to the PHA's 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.

**PERSON 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 an "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).

**PHA PLAN**. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

**PORTABILITY.** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

**PREMISES.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**PRIVATE SPACE.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**PROCESSING ENTITY.** Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

**PROGRAM.** The Section 8 tenant-based assistance program under 24 CFR Part 982.

**PROGRAM RECEIPTS**. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

**PUBLIC ASSISTANCE.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**PUBLIC HOUSING AGENCY (PHA).** PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**REASONABLE ACCOMMODATION.** See Appendix C in Table of Contents

**REASONABLE RENT.** A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

**RECEIVING PHA.** In portability: 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. There are annual and interim recertifications.

**REGULAR TENANCY.** In the pre-merger certificate program: A tenancy other than an over‑FMR tenancy.

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassisted.

**RENT TO OWNER.** The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**RESIDENCY PREFERENCE**. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

**RESIDENCY PREFERENCE AREA**. The specified area where families must reside to qualify for a residency preference.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

**RESPONSIBLE ENTITY.** For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**SECRETARY.** The Secretary of Housing and Urban Development.

**SECTION 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

**SECURITY DEPOSIT.** A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SERVICE PERSON.** A person in the active military or naval service (including the active reserve) of the United States.

**SEXUAL ASSAULT.** Please see VAWA Policy.

**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.

**SINGLE PERSON.** A person living alone or intending to live alone.

**SPECIAL ADMISSION.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**SPECIAL HOUSING TYPES.** See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**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 husband or wife of the head of the household.

**STALKING.** Please see VAWA Policy.

**SUBSIDIZED PROJECT.** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

A Public Housing Project.

**SUBSIDY STANDARDS.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**SUBSTANDARD UNIT.** Substandard housing is defined by HUD for use as a federal preference.

**SUSPENSION/TOLLING.** Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

**TENANCY ADDENDUM.** 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.** The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

**TOTAL TENANT PAYMENT (TTP).** The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

**UNIT.** Residential space for the private use of a family.

**UNUSUAL EXPENSES.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**UTILITIES.** Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCE.** If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

**UTILITY REIMBURSEMENT.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

**UTILITY REIMBURSEMENT PAYMENT.** In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VACANCY LOSS PAYMENTS.** (For pre-merger certificate contracts effective prior to 10/2/95) 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.

**VAWA (Violence Against Women Act).** See Appendix D in Table of Contents

**VERY LARGE LOWER-INCOME FAMILY.** Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

**VERY LOW INCOME FAMILY.** A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the pre-merger certificate and voucher programs.

**VETERAN.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**VOUCHER (rental voucher).** A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**VOUCHER HOLDER.** A family holding a voucher with an unexpired term (search time).

**VOUCHER PROGRAM.** The Housing Choice Voucher program.

**WAITING LIST.** A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

**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 RENT.** This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

**WELFARE-TO-WORK (WTW) FAMILIES.** Families 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).

**C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE**

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

**CITIZEN.** A citizen or national of the United States.

**EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS.** The documents which must be submitted to evidence citizenship or eligible immigration status.

**HEAD OF HOUSEHOLD.** The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

**HUD.** Department of Housing and Urban Development.

**INS.** The U.S. Immigration and Naturalization Service.

**MIXED FAMILY.** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NONCITIZEN.** A person who is neither a citizen nor national of the United States.

**PHA.** A housing authority who operates Public Housing.

**RESPONSIBLE ENTITY.** The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

**SECTION 214.** Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

**SPOUSE.** Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship.

**APPENDIX A:**

**SPECIAL HOUSING CHOICE VOUCHER PROGRAMS**

Top of Form

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Along with the traditional tenant-based voucher Program, MPHA’s Section 8 Housing Choice Voucher Programs offers the following special programs for its participating members:

* Mainstream Housing Opportunities for Persons with Disabilities Voucher Program
* Non-Elderly Voucher Programs for Persons with Disabilities
* Preference Voucher Program
* It’s All About the Kids
* Camden
* Enhanced Voucher Program
* Mobility Voucher Program
* [Project Based Voucher Program](http://www.hacla.org/specialprograms/#project-based)
* Foreclosure Stabilization Project Based Voucher Demonstration Program
* [Family Self-Sufficiency Program](http://www.hacla.org/specialprograms/#family-program)
* [Shelter Plus Care Program](http://www.hacla.org/specialprograms/#shelter-plus)
* [Moderate Rehabilitation](http://www.hacla.org/specialprograms/#single-room-occupancy)
* [Section 8 Homelessness Study Program](http://www.hacla.org/specialprograms/#homeless-program)

**MAINSTREAM HOUSING OPPORTUNITIES FOR PERSONS WITH DISABILITIES**

In November 1994 HUD approved MPHA’s Elderly – Only Designated Housing Allocation Plan; on February 8, 1995 MPHA designated its first Elderly-Only Highrise. Five additional MPHA highrise communities were designated for Elderly-Only in that same year. MPHA believed that the non-elderly disabled population on our Public Housing Waiting has lost an element of choice in its housing options and by calculating the total number of vacancies anticipated during the Allocation Plan period confirmed that approximately 92 non-elderly disabled persons would have been housed in those buildings over the period of the approved plan had the buildings not been designated. As a result, in May 1995 the MPHA applied for Section 8 Voucher Funding for Mainstream Housing Opportunities for Persons with Disabilities, to be used in conjunction with a Public Housing Authority’s Designated Housing Allocation Plan and was awarded 92 Section 8 Vouchers under the allocation.

Consistent with HUD Notice PIH 2011-32, The Housing Choice Voucher Program successfully re-established these vouchers as NED HCVs (Non-Elderly Disabled Housing Choice Vouchers).

The intake process for this non-elderly disabled program is consistent with the intake process for all HCV program applicants. Information regarding the applicant’s household composition and income is obtained and the applicant is screened for criminal history background. If the applicant is determined eligible for the HCV Program, they are briefed and issued a non-elderly disabled voucher based on current occupancy standards. These vouchers continue to be used by non-elderly disabled households upon turnover.

**NON-ELDERLY DISABLED PROGRAM (“NED”)**

1. In 2002 MPHA was awarded 200 “NEDs” (officially named “*Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans*”), so that we could meet the housing needs of non-elderly disabled households who would have been housed by MPHA if occupancy in our designated public housing buildings were not restricted to elderly households through the approval of our Designated Housing Plan. The MPHA had an approved Designated Housing Plan that authorizes 15 of our 40 high-rises to be designated as elderly-only.

The applicant intake process for this NED Program is consistent with the intake process for all HCV program applicants. Information regarding the applicant’s household composition and income is obtained and the applicant is screened for criminal history background. If the applicant is determined eligible for the HCV Program, they are briefed and issued a non-elderly disabled voucher based on current occupancy standards. These vouchers continue to be used by non-elderly disabled households upon turnover.

1. In 2002, MPHA was also awarded 200 “NEDs” to assist non-elderly disabled households that were not currently receiving housing assistance in certain HUD-assisted properties due to the owner’s establishment of preferences or restrictions for occupancy to elderly families. (Officially named “Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments and Section 202, Section 221 (d)(3) and Section 236 Developments*”.*

The intake process for this non-elderly disabled program is also consistent with the intake process for all HCV program applicants. Information regarding the applicant’s household composition and income is obtained and the applicant is screened for criminal history background. If the applicant is determined eligible for the HCV Program, they are briefed and issued a non-elderly disabled voucher based on current occupancy standards. These vouchers continue to be used by non-elderly disabled households upon turnover.

**ENHANCED VOUCHERS**

HUD has provided special Section 8 Enhanced Vouchers – also known as Preservation Vouchers or Sticky Vouchers - to protect the tenancy of residents of apartment communities when owners of the privately owned development pre-pay or “opt out” of their federally assisted mortgage or Section 8 Contract.

When owners end participation in the Section 8 Project based program or pre-pay their government loan, they convert their housing development to market rate housing and the rents on the affected units are no longer subsidized, the rents increase. When a property owner takes such action - by either a prepaying and/or opting-out – the owner is required by federal law to accept Section 8 Enhanced Vouchers and allow tenants in good standing to remain in the building. The Section 8 Enhanced Voucher replaces the government assistance that kept the rent low; Enhanced vouchers are administered by the local public housing authority and are renewed yearly.

Enhanced Vouchers differ from “regular” tenant based housing choice vouchers in that only tenants who were living at the property on the date the government assistance is ended (date of prepayment and/or opt out) are eligible to receive an Enhanced Voucher and, Enhanced Vouchers are not limited to the PHA’s Payment Standard; it allows payment of a higher rent as long as it is determined reasonable by the PHA. If the PHA determines the owner’s proposed new rent is not reasonable, the owner must either lower the rent, or the tenant will have to move to another rental property with a regular voucher which covers the rent on the new unit based upon a Payment Standardestablished by the PHA. At any time the tenant decides to move from the converted property, the voucher loses its enhancements and reverts to a “regular” Section 8 Housing Choice Voucher.

The Minneapolis Public Housing Authority currently administers Enhanced Vouchers at three (3) Housing Communities:

* Oak Grove Apartments
* Rivergate Apartments
* Calhoun Beach Club

**MOBILITY VOUCHER PROGRAM**

MPHA revitalized its Mobility Voucher Program to encourage low income families to move to   
Areas of Opportunity within the 7 County Metropolitan Area as they seek to find safe, decent and affordable housing and a place to raise their families in an environment conducive to breaking the cycle of poverty. Areas of Opportunity are defined as the unit the family wishes to move into within the Twin Cities 7 County Metro Area is neither located in a census tract where 40% or more of its residents live at 185% of the U.S. poverty level, or in a census tract that has 40% or more of its residents live at 185% of the U.S. poverty level *and* 50% or more of its residents are of color. This initiative also enhances MPHA’s effectiveness as it responds to federal and local governments’ goal to deconcentrate families who live in Areas of Concentrated Poverty and Racially Concentrated Areas of Poverty.

Each participating family will be assigned to a Mobility Counselor who will be responsible for assisting the family in finding and maintaining a home in an Area of Opportunity in the Twin Cities Metropolitan Area. Participants will sign a 3-year mobility contract that will assist them with strategies to achieve and maintain self-sufficiency and to locate and maintain housing in a community of greater opportunity. MPHA’s Mobility Voucher Program includes elements that will contribute to its success. l Participants for this program will be drawn from MPHA’s Housing Choice Voucher program and the HCV Waiting List or can convert a rent reform family into a Mobility Voucher Program Participant. Families chosen for this program:

* Must commit to use the Mobility Voucher only in Areas of Opportunity
* Must be a family that includes minor children
* Must meet MPHA Section 8 income limits and successfully meet other screening requirements for participation in MPHA’s Section 8 HCV program
* Must be employed, in a work training program or enrolled in an education institution. If employed, must maintain employment throughout participation in the program.
* Must be currently living in an Area of Concentrated Poverty or a Racially Concentrated Area of Poverty
* Will receive special briefings and information packets that identify Areas of Opportunity
* Will receive support and case management from a Mobility Community Services Coordinator or the Mobility Community Engagement Specialist.
* Must commit to live in an Area of Opportunity for 3 years will receive a Working Family Incentive Deduction of 15% of Gross Income.
* Mobility Voucher participants who are unsuccessful in the initial housing search will be given an opportunity for an extension as long as the family provides proof demonstrating efforts at finding a home in an Area of Opportunity. A participant family may also choose to be returned to the regular Section 8 Housing Choice Voucher waiting list at the same spot where the family was pulled prior to participation in the Mobility Program.

**FORECLOSURE STABILIZATION PROJECT BASED VOUCHER DEMONSTRATION PROGRAM**

MPHA is administering a demonstration program partnership with a community non-profit housing development and management company. The non-profit organization received a Neighborhood Stabilization Program (NSP) grant from the City of Minneapolis to purchase and rehab foreclosed rental properties in designated ‘at risk’ neighborhoods throughout the City. These units will be offered for rent to very low income families.

This project allocates up to 21 Project Based Housing Choice Vouchers at the selected properties in an effort to stabilized the properties and contribute to the well-being of the surrounding neighborhood. Applicant families are referred to MPHA by the non-profit partner. The referral process is pursuant to funding requirements under the non-profit’s CDBG and ARRA funds, with priority going to referral families who are identified to be on MPHA’s Section 8 HCV waiting list. MPHA’s Section 8 HCV waiting list has a ‘remains open’ clause for specific referrals for this program.

The program enables very low income families who are at risk of homelessness to secure housing. It also helps achieve greater cost effectiveness in federal expenditures by helping to secure the investments of the Federal NSP program expenditures and providing a stable operating fund for the purchased and rehabbed development

**PROJECT BASED VOUCHER PROGRAM**

In the operation of its Housing Choice Voucher (HCV) programs, the MPHA recognized that there were distinct populations who needed not only housing, but supportive services to successfully participate in the life of the community. MPHA did not have the capacity or the resources to support these populations; however, the agency could make a significant contribution to the men, women and children who comprised these groups. MPHA could provide funding that would offer stable housing and provide a venue where families could receive the needed supportive services.

MPHA issued an RFP for service providers to offer a limited number of HCVs that could be project based. This strategy allowed for service providers to have a stream of income that supported the costs of housing while utilizing their limited resources to provide critical support to individuals and families.

To date, MPHA has awarded 685 vouchers to more than 20 agencies and organizations for housing assistance funding. These funds not only allowed participating families to secure needed housing and services, they also enable the participating agencies to leverage other funds to support the development of housing developments designed for the type of services to be provided.

Last year MPHA adopted a policy that sets aside up to 20% of unallocated vouchers to be available for those who participate in project based voucher programs for one year. This allows families to who are successful in their programs to move out into other housing options and subsequently frees up space for another person or family needing housing and services to find an opening.

MPHA’s project based Section 8 Program funds an array of supportive housing initiatives including:

* Homeless drug abusing pregnant women and women with children
* Low-income single parents with below functioning education and communications skills
* Women and children who are victims of family violence
* Homeless families, children and single adults
* Families with multiple issues including chemical dependency, mental health and criminal behavior
* Native populations who have drug and alcohol dependency issues
* MFIP (Welfare Families) with more than four children
* Seniors who cannot live independently
* Individuals with severe mental illness
* Youths and runaways whose families are unable or unwilling to provide housing

MPHA’s project based initiatives have helped fill a huge gap in the continuum of care needs for families in the Minneapolis community.

**SHELTER PLUS CARE PROGRAM**

The Shelter Plus Care Program was created under the McKinney Homeless Assistance Act.  Shelter Plus Care is designed to promote permanent housing with supportive service to persons with disabilities coming from the streets and emergency shelters.  Shelter Plus Care grants require a supportive services match equal to, or greater than, the Section 8 rental assistance award.

HUD selects projects for Shelter Plus Care funding in a national competition based on regional and national homeless assistance goals.  The grants provide for a variety of housing rental situations, Tenant-Based (TRA), Sponsor-Based (SRA), Project-Based (PBA), and an SRO Rental Assistance component.

MPHA worked in partnership with Lutheran Social Service (LSS) to apply for funding to support its “Kids Collaborative Program”.  We received a grant to provide rental assistance on behalf of six (6) homeless families for a period of five years.  To be eligible for the program, a person must be homeless (see definition below), with a mental illness, substance abuse problem, HIV/AIDS or a dual diagnosis, and must be referred by the community-based organization (LSS) which provides supportive services. “Homeless” includes a family or individual who lacks a fixed, regular and adequate nighttime residence; and has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or
2. An institution that provides a temporary residence for persons intended to be institutionalized; or
3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (street, park, hallway, freeway underpass).

The term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law. 

**MODERATE REHABILITATION**

The Moderate Rehabilitation (Mod Rehab) Program was designed in 1978 to be an expansion of the rental certificate program. While the rental certificate program stimulated maintenance of the housing stock, an estimated 2.7 million rental units nationwide had deficiencies requiring a moderate level of upgrading; and approximately 85% of these units were in buildings of fewer than 20 units. The Mod Rehab program was designed to upgrade that housing stock.   
  
The Moderate Rehabilitation Program provides project-based rental assistance to very low-income individuals and families. The rental subsidy is attached to the building or unit. As long as a tenant remains in that building or unit during the term of the contract, he/she benefits from the rental subsidy. The Section 8 subsidy does not provide financing for rehabilitation costs.  
  
No new projects are authorized for development under the Moderate Rehabilitation Program. Assistance is limited to properties previously rehabilitated pursuant to a Housing Assistance Payment (HAP) contract between an owner and a Public Housing Agency (PHA).   
  
Owners under contract to Section 8 maintain their own waiting lists and refer applicants to MPHA’s Housing Choice Voucher Program for determination of eligibility.

The Section 8 Annual Contributions Contract (ACC) authorizes the use of the Section 8 Program’s Administrative Fee Reserve for other housing purposes provided the amounts used for other housing purposes are not required for projected administrative expenses through the remaining term of the ACC.  The Board of Commissioners must set a threshold for the use of Administrative Fee Reserves used for other housing purposes without further approval of the Board.  HUD requires that the threshold be specified in the PHA’s Administrative Plan.  For Fiscal Year 2017, the threshold is set at the increase in the amount of Administrative Fee Reserves resulting from the net income in 2015 for the cluster of Section 8 Moderate Rehabilitation Programs.  The net income from the Section 8 Moderate Rehabilitation Programs in Fiscal Year 2015 was $51,333.

**SINGLE ROOM OCCUPANCY MODERATE REHABILITATION PROGRAM**

The SRO Moderate Rehabilitation Program was created under the Stewart B. McKinney Homeless Assistance Act of 1987. The Section 8 rental assistance provided under this program is designed to bring more SRO units into the local housing supply to assist homeless persons into permanent housing. Much like the “traditional” Moderate Rehabilitation Program, HUD's strategy is to convert existing housing, a rundown hotel, or even an abandoned building into safe and decent housing. HUD urges applicants to be creative when selecting buildings for this program. Again, like the Moderate Rehab Program, the SRO Section 8 subsidy does not provide financing for rehabilitation costs.

HUD selects applicants for SRO Moderate Rehabilitation funding in a national competition based on regional and national homeless assistance goals. The Housing Authority first chooses projects to include in an application to HUD through a Request For Proposal (RFP) and evaluation process. Selected SRO projects (owners) receive rental assistance on behalf of a homeless tenant for ten years. To be eligible for assistance, an SRO unit must receive a minimum of $3,000 of rehabilitation work to meet HUD's Housing Quality Standards (HQS). The rental subsidy in the SRO Moderate Rehabilitation Program is attached to the building or unit as Project-Based Rental Assistance. As long as a tenant remains in that building or unit during the term of the contract, he/she receives the rental subsidy.

The Section 8 Annual Contributions Contract (ACC) authorizes the use of the Section 8 Program’s Administrative Fee Reserve for other housing purposes provided the amounts used for other housing purposes are not required for projected administrative expenses through the remaining term of the ACC.  The Board of Commissioners must set a threshold for the use of Administrative Fee Reserves used for other housing purposes without further approval of the Board.  HUD requires that the threshold be specified in the PHA’s Administrative Plan.  For Fiscal Year 2017, the threshold is set at the increase in the amount of Administrative Fee Reserves resulting from the net income in 2015 for the cluster of Section 8 Moderate Rehabilitation Programs.  The net income from the Section 8 Moderate Rehabilitation Programs in Fiscal Year 2015 was $51,333.

**SECTION 8 HOMELESSNESS STUDY PROGRAM**

The MPHA HCV Program partnered with HUD and ABT Associates to create a Section 8 Homelessness Study Program. The goal of the program was to conduct an evaluation of the effectiveness of various housing and services interventions for homeless families in order to give policy makers, community planners, and local practitioners experiential evidence about the best way to address homelessness among individuals and families. The study compared four types of housing assistance and services to determine which interventions worked best to promote housing stability, family preservation, child and adult well-being, and self-sufficiency. One of the study interventions is the *“subsidy only”* intervention. MPHA has been selected to provide a permanent housing subsidy – in the form of a Housing Choice Voucher – to homeless families who volunteer to participate.  The Homelessness Study Program will target homeless individuals and families living in emergency shelters.  The MPHA HCV Program has completed the HUD Family Study and is no longer accepting applications for this program.

**FAMILY UNIFICATION PROGRAM (FUP) FAMILY AND YOUTH**

This Memorandum of Understanding coordinates services between MPHA and County in order to identify and assist FUP-eligible families and youth.

* 1. To ensure that rental assistance payments help families who are involved with the child welfare system and whose children are at risk of out-of-home placement or who may experience delays in being reunited with their families due to inadequate affordable housing, to find affordable and suitable housing in a safe environment.
  2. To ensure that children who remain with, or who are reunited with, their families are safe and stable and not at risk of abuse or neglect as a result of homelessness or inadequate housing.
  3. To ensure that youth who emancipate from their foster care have safe, affordable housing and avoid homelessness.
  4. Families open in Child Protection for whom lack of adequate housing is a primary reason for their risk of imminent placement of children in out-of-home care, or for whom safe, affordable housing is a barrier to reunification.
  5. Families open in Project Connect for case management due to homelessness, a disability, and risk of Child Protection involvement.
  6. Families open in Project CHILD for case management due to drug or alcohol exposed pregnancy and risk of child protection involvement.
  7. Youth ages 18-21 who qualify for the Extended Foster Care program who will not have adequate housing post-discharge, or who are now homeless and wish to re-engage, and meet qualifications.

**FAMILY UNIFICATION PROGRAM YOUTH (FUPY)**

* Increase the age of eligibility for FUP vouchers from 21 to 24 and make youth who will leave Foster Care within 90 days and are homeless or at risk of homelessness eligible.
* FUP vouchers will allow eligible youth “who have attained 16 or 17 years” and who have left foster care to remain in the program for up to 36 months.
* To ensure that all FUP youth enrolled in the Family Self-Sufficiency (“FSS”) program will receive HCV housing assistance for the duration of the FSS Contract of Participation

APPENDIX B

# LIMITED ENGLISH PROFICIENCY (LEP) PLAN

**A. PURPOSE**

The purpose of this Plan is to assist Minneapolis Public Housing Authority (MPHA) staff in providing meaningful access to MPHA’s programs and activities by persons with Limited English Proficiency (LEP). MPHA is committed to complying with federal requirements in providing free meaningful access for its LEP clients. No LEP client will be denied access to an MPHA program because the client does not speak English or communicates in English on a limited basis.

**B. DEFINITION OF TERMS**

**1. Client –** A clientis a person who:

1. is an applicant for public housing, Section 8, homeownership and other MPHA programs;
2. is a recipient of public housing, Section 8, home ownership and other MPHA programs; or
3. may be eligible for MPHA’s programs but is underserved and may benefit from an outreach program.

**2. Effective Communication** –Effective communication occurs when MPHA staff has taken reasonable steps to provide meaningful access to an LEP client. Effective communication also means that the LEP client is able to provide and receive required or necessary information.

**3. Interpretation** – Interpretation means the oral or spoken transfer of a message from one language into another language.

**4. Language Assistance**- Language assistance includes interpretation and translation. MPHA has the sole discretion to determine whether to provide the language assistance in the form of interpretation or translation.

**5. Limited English Proficiency (LEP)** – A person who does not speak English as their primary language **and** who has a limited ability to read, write, speak or understand English may be limited English proficient (LEP) and may be entitled to language assistance with respect to a particular program, benefit or right. The focus is on the client’s lack of English proficiency. A client who proficiently speaks English may not be a LEP client.

**6. Meaningful Access –** Meaningful access is free language assistance in compliance with federal requirements. MPHA’s goal is to provide meaningful access to MPHA’s programs and services by LEP persons in a manner that balances the following four factors:

a. The number of or proportion of LEP persons eligible to be served or likely to been countered by MPHA.

b. The frequency with which MPHA comes into contact with a particular language.

MPHA’s daily contact with a particular language may require more language service, than sporadic contact.

c. The nature and importance of the program, activity or service to the person’s life.

A compulsory activity is evidence of importance. For example, voluntary attendance at a resident meeting does not have the same importance as the application and termination process for public housing and Section 8 participation.

d. MPHA’s resources and the cost of providing meaningful access.

Reasonable steps may cease to be reasonable where the costs imposed substantially exceed the benefits. MPHA determines the budget for language assistance.

**7. Translation** – Translation means the written transfer of a message from one language into another language. In any conflict between an English document and a translated document, the English version will control.

8. **Vital Document –** A vital document is one that is critical for ensuring that a LEP person has meaningful access.

**C. OFFER OF FREE LANGUAGE ASSISTANCE**

MPHA staff will offer the opportunity for meaningful access to LEP clients who have difficulty communicating in English. If a client asks for language assistance and MPHA determines that the client is LEP and that language assistance is necessary to provide meaningful access, MPHA will make reasonable efforts to provide free language assistance. If reasonably possible MPHA will provide the language assistance in the LEP client’s preferred language.

**D.** **LANGUAGE ASSISTANCE**

**1. Mix of Language Assistance**

MPHA has substantial flexibility in determining the type of language assistance necessary to provide meaningful access. Meaningful access should be at a time and place that avoids the effective denial of the program or an undue burden or delay in the rights, benefits or services to the LEP person.

**2. Translation of Documents**

a. Where 5% of MPHA’s public housing tenants or Section 8 recipients are LEP persons and speak a specific language, MPHA will translate the public housing lease and selected mass mailings and documents of vital importance in that language.

b. MPHA will translate vital documents. MPHA will determine whether to translate a document on a case by case basis considering the totality of circumstances and the four factors listed under Section B. 6. Meaningful Access.

c. MPHA may also consider the likely lifespan of the document. Based upon this analysis, MPHA has determined that it is not cost effective to translate a one of a kind document such as a letter denying admission to a program, notice of lease termination, a court eviction action and a Section 8 notice of termination of rental assistance program participation and a letter of non-disclosure.

d. Persons who may approve the translation of a document include: Executive Director; Deputy Executive Director; Managing Director of Low Income Public Housing; Managing Director of Housing Choice Voucher Program; and General Counsel. .

**3. Formal Interpreters**

a. Formal interpreters include MPHA bilingual staff and contract vendors.

b. Formal interpreters shall be used at the: 1) formal hearing for denial of admission to public housing; 2) informal settlement conferences and formal hearing for termination of public housing; 3) nondisclosure meeting for Section 8 participation; and 4) termination hearing for Section 8 participation.

c. A MPHA Staff interpreter may not be a subordinate to the person making the decision.

**4. Informal Interpreters**

a.Informal interpreters may include the family members, friends, legal guardians, service representatives or advocates of the LEP client. Informal interpreters may be appropriate depending upon the circumstances and subject matter. However in many circumstances, informal interpreters, especially children, are not competent to provide quality and accurate interpretations. There may be issues of confidentiality, competency or conflict of interest.

b. An LEP person may use an informal interpreter of their own choosing and expense in place of or as a supplement to the free language assistance offered by MPHA. If possible, MPHA should accommodate a LEP client’s request to have an informal interpreter. In these cases the client and interpreter should sign a waiver of free interpreter services.

c. MPHA may risk noncompliance if it requires, suggests, or encourages a LEP client to use an informal interpreter.

d. If a LEP client prefers an informal interpreter, after MPHA has offered free interpreter services, the informal interpreter may interpret.

e. If a LEP client wants an informal interpreter, MPHA may also have a formal interpreter present.

**5**. **Outside Resources**

a. Outside Resources may include community volunteers, Minneapolis Highrise Representative Council, City Liaison, and MPHA tenants or Section 8 participants.

b. Outside Resources may be used for interpretive services at public or informal meetings or events.

**6. Emergency Situations**

Any interpreter may be used in an emergency situation. MPHA should first respond to the emergency and follow-up with language assistance as appropriate.

**7. Document Use of Interpreter**

MPHA staff will document in the LEP client’s file or record when an interpreter is used during the application and termination process to a MPHA program or during the Informal Hearing in Section 8.

8. **Vital Document**

A vital document is one that is critical for ensuring that a LEP person has meaningful access.

**E**. **GUIDELINES FOR USING AN INTERPRETER**

1. State the purpose of your communication and describe the type of information you may convey.

2. Enunciate your words and avoid contractions such as “can’t” which can be easily misunderstood. Instead say, “cannot.”

3. Speak in short sentences, expressing one idea at a time and allow the information to be interpreted.

4. Avoid the use of double negatives, e.g., “If you don’t appear in person, you won’t get your benefits.” Instead say, “You must come in person in order to get your benefits.”

5. Speak to the LEP client and not to the interpreter.

6. Avoid using slang and acronyms such as MFIP. If you must do so, please explain their meaning.

7. Provide brief explanations of technical terms or terms of art, such as recertification, income disregard and minimum rent.

8. Occasionally ask if the interpreter understands the information or if you should slow down or speed up your speech. If the interpreter is confused, the client may also be confused.

9. Occasionally ask if the LEP client understands the information. You may have to repeat or clarify some information by saying it in a different way.

10. Be patient and thank the interpreter.

**F. NOTICE OF FREE LANGUAGE ASSISTANCE FOR MPHA BUSINESS**

**MPHA will provide notice of free Language Assistance as follows:**

1. In applications for public housing and Section 8 participation will ask applicants if they are LEP and need free language assistance for MPHA business.

2. In the letter informing clients about recertification will state that clients may contact their eligibility technician to request free language assistance for MPHA business.

3. In each denial to public housing, lease termination and denial or termination of Section 8 participation will state that the client may contact MPHA for free language assistance about the action taken.

4. On the public housing monthly rental statement will state that a tenant may contact their property manager for free language assistance for MPHA business.

5. On other occasions as determined by MPHA which may include documents informing persons about how to apply for MPHA programs.

**G. PRIVATE AND CONFIDENTIAL DATA**

**1. MPHA Staff Interpreters**

Federal and state law requires MPHA to protect private or confidential data.

**2**. **Contract Language Assistance Vendors**

Contract language assistance vendors will sign a “State and Federal Data Privacy Statement” form as part of the contract documents.

**3**. **Informal Interpreters**

When using informal interpreters MPHA should have the informal interpreter and client sign a “Waiver of Free Interpretive Services” form.

**H. COLLECTION OF LANGUAGE INFORMATION**

1. The application for public housing and Section 8 shall ask the LEP client to identify their language.

2. MPHA will enter a client’s language on the tracking software for public housing and Section 8.

**I. MPHA STAFF TRAINING**

1. MPHA will make the LEP Plan available to staff.

2. MPHA will inform new employees in the New Employee Orientation of MPHA’s duty to offer free language assistance in compliance with federal requirements.

3. MPHA Staff who have ongoing contact with LEP clients will attend LEP training.

4. LEP training will include the following:

a. MPHA’s duty to offer free language assistance in compliance with federal requirements;

b. The substance of MPHA’s LEP Plan;

c. How to document a client’s language needs; and

e. Identity of the LEP Manager, bilingual staff and contract interpreters.

5. MPHA will make a language identification flashcard available to staff.

**J. MONITORING**

Periodically, the MPHA LEP Manager will review the LEP Plan. The review will include:

1. A summary report from the tracking software of the number of MPHA clients who are LEP.

2. A summary report from the tracking software listing the languages used by LEP clients.

3. A determination as to whether 5% of MPHA’s clients speak a specific language requiring the translation of documents as provided in Part D-2 listed above.

**K. LEP PLAN DISTRIBUTION AND PUBLIC POSTING**

The LEP Plan will be:

1. Distributed to all MPHA supervisors.

2. Available in MPHA Management Offices and the Section 8 Department.

3. Posted on MPHA’s website, mphaonline.org.

**L. CONFLICT AND SCOPE**

The LEP Plan does not create a standard of care, a covenant of habitability or any rights to third parties or MPHA clients. The Plan does not enlarge MPHA’s duty under any law, regulation or ordinance. If this Plan conflicts, with applicable law, regulation or ordinance, the applicable law, regulation or ordinance shall prevail. The Plan is a general guideline as to a standard of care to which MPHA aspires.

APPENDIX C

# REASONABLE ACCOMMODATION POLICY

1. **Purpose**

The purpose of this policy is to assist Minneapolis Public Housing Authority (MPHA) staff in providing reasonable accommodations to its applicants, public housing residents, Section 8/HCV participants and other program recipients with a disability. It does not enlarge MPHA’s duty under any law, regulation or ordinance. Where in conflict, the applicable law, regulation or ordinance shall prevail.

1. **Mission Statement**

MPHA’s policy is to comply with the Rehabilitation Act, § 504 29 U.S.C. § 794, as implemented by 24 C.F.R. § 8, Americans with Disabilities Act, 42 U.S.C. § 2101 as implemented by 28 C.F.R. § 35 and 29 C.F.R. § 1630, Fair Housing Act, 42 U.S.C. § 3601 as implemented by 24 C.F.R. §100, Minnesota Human Rights Act, Minn. Stat. § 363 and Minneapolis Civil Rights Ordinance.

MPHA shall not discriminate or retaliate against an applicant, public housing resident, Section 8/HCV participant or other program recipient because of disability, race, color, creed, religion, national origin or ancestry, familial status, sex, sexual preference, veteran status, public assistance status, marital status, age, or political affiliation. MPHA shall not retaliate against a person who claims discrimination. MPHA shall not solely on the basis of a disability, deny benefits to an otherwise qualified person. MPHA shall give a qualified person with a disability through a reasonable accommodation an equal opportunity to participate in and benefit from its housing, aid, benefit or service.

By means of a reasonable accommodation, MPHA shall give a qualified person with a disability housing, aid, benefit or service that is equally effective as that provided to others without a disability. The term “equally effective” is not intended to produce an identical result or level of achievement as a person without a disability but is intended to give a person with a disability an equal opportunity to obtain the same result or level of achievement.

* 1. **Disability**
  2. A Person With A Disability Is One Who:

1. Has a physical or mental impairment that substantially or as regards the Minnesota Human Rights Act and Minneapolis Ordinances materially limits one or more major life activity;
2. Has a record of such impairment; or
3. Is regarded as having such impairment.

3.2 Specifically, excluded from the definition of a disability under the Americans with Disabilities Act are:

1. Sexual behavior disorders such as transvestitism, pedophilia, exhibitionism and voyeurism.
2. Compulsive gamblers, kleptomaniacs or pyromaniacs.
3. Homosexuality, bisexuality, gender disorders and transsexual conduct

3.3 Under the Americans with Disabilities Act, the disability must be current and substantially limit one or more major life activity. Under certain circumstances, physical conditions such as high blood pressure and poor vision, which are corrected by medication or another measure, are not disabilities.

3.4 Under 24 C.F.R. § 100.201 (a)(2), a disability does not include the current illegal use of a controlled substance. Also, being a transvestite is not a disability. Also, for purposes of eligibility for low-income housing a person does not have a disability solely based on any drug or alcohol dependence.

3.5 **Major Life Activity**

Includes but is not limited to caring for one’s self, doing manual tasks, walking, seeing, sleeping, hearing, speaking, breathing, learning and working.

3.6 **Mental and Physical Impairments**

A mental impairment may include but is not limited tomental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

A physical impairment may include the following body systems: neurological; musculoskeletal; senses; respiratory; cardiovascular; reproductive, digestive, genito-urinary, hemic and lymphatic; skin; and endocrine.

A mental or physical impairment may include but is not limited to cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, and mental retardation.

3.7 **A Qualified Person With A Disability**

One who meets the essential eligibility requirements and who can achieve the purpose of the program or activity with or without reasonable accommodation or modification.

3.8 **Essential Eligibility Requirements**

Include but are not limited to: stated eligibility requirements like income; compliance with selection criteria; timely payment of financial obligations; care of premises; no disqualifying criminal or drug activities; respect for the rights of others; explicit or implicit requirements inherent to the program or activity; and compliance with all obligations of occupancy with or without supportive services provided by persons other than MPHA. A person may request a reasonable accommodation to meet the essential eligibility requirements. For instance, a mentally ill person whose conduct even with a reasonable accommodation poses a significant risk of substantial interference with the health***,*** safety or peacefulenjoyment of the premises, or would result in substantial physical damage to the property of others, may not be qualified for a project or programlacking the necessary supportive services.

3.9 **Exclusions**

A person with a disability may be excluded if the person is not “otherwise qualified” for housing or when a person’s tenancy with or without areasonable accommodationwould pose a direct threat to others or the person’s own health or safety or would result in substantial physical damage to the property of others.

3.10 **Undue Hardship**

MPHA has the burden to show that the reasonable accommodation would result in an undue hardship. An undue hardship is a significant difficulty or expense or undue financial or administrative burden.

4.0 **Reasonable Accommodation**

4.1 Need for a Reasonable Accommodation and Nexus Between the Disability and Accommodation

A reasonable accommodation may include an exception to MPHA’s rules, policies or procedures. While MPHA may accept the judgment of the person with the disability that an accommodation is needed, MPHA may require the person to show the need for an accommodation or to permit an inspection of the unit. Also, MPHA may investigate alternatives to the requested accommodation and/or alternative methods of providing the requested accommodation. MPHA will select an appropriate accommodation which is most convenient and cost effective for MPHA.

The person with the disability has the burden to show that there is a connection between the disability and the accommodation and a connection between the disability and the lease violation. The person must also show that the accommodation is likely to enable the person to comply with the lease or the program and that the person will accept the necessary assistance.

However, MPHA cannot amend the program requiring the person to accept such services. MPHA may deny admission to the program if the rejection of the services results in conduct that violates the program. For example, MPHA may not terminate a participant’s assistance for not taking a medication, but may terminate for a program violation resulting from not taking the medication.

See Chapter 6 Reasonable Accommodation for additional subsidy.

The PHA may review all previously approved Reasonable Accommodations.

* 1. The requesting party, applicant, or Participant has the burden to show that the request is linked to the disability, is necessary to afford the person an equal opportunity to enjoy public housing and is possible to implement. Equal opportunity means that the program is equally accessible to disabled and non-disabled persons. For example, a reasonable accommodation is not intended to put a person first in line on any waiting list. Thus, three key elements are necessity, equal opportunity and reasonableness.

**4.3 Reasons To Deny An Accommodation**

MPHA shall make a reasonable accommodation for a physical or mental impairment of a qualified applicant or recipient unless MPHA shows that:

* 1. the accommodation would impose an undue financial and administrative burden;
  2. the accommodation will fundamentally change the nature of the program;
  3. the accommodation would pose a direct threat to others;
  4. the accommodation will create an unsafe condition;
  5. the accommodation would result in substantial physical damage to MPHA’s property or the property of others;
  6. the person cannot meet the essential eligibility requirements;
  7. the request is not a request for a reasonable accommodation;
  8. there is a lack of documentation of the disability;
  9. the documentation of the disability lacks credibility or foundation;
  10. the accommodation has failed in the past and the person cannot show new circumstances as to why the accommodation will likely work in the future;
  11. the request is based upon a personal preference;
  12. in the case of extra bedrooms or space that the person is not using the space for the intended reasonable accommodation; or
  13. other reasons as provided by law or regulation.

For instance, a reasonable accommodation is not a personal preference. A personal preference is the liking of something over another. In addition, a reasonable accommodation does not require MPHA to provide counseling, medical or social services that are outside the scope of services provided to other persons.

MPHA may also deny a request for a reasonable accommodation if the person does not show necessity, an equal opportunity and reasonableness as stated in 4.2. or if the party does not permit MPHA to inspect the unit for purposes related to the reasonable accommodation request or denial.

5.0 **Communication Accommodations**

MPHA shall make reasonable accommodations to communicate with applicants, public housing tenants, Section 8 participants, other program recipients and members of the public. Reasonable accommodations may include using auxiliary aids such as interpreters for applicants, Braille materials, large print materials, audio tapes, note takers or telecommunication devices for deaf persons. MPHA is not required to provide devices that are of a personal nature or that are prescribed for personal use or study.

6.0 **Applicants for Section 8/HCV Programs**

During the application process, MPHA may ask all applicants the same appropriate questions. An applicant is not required to talk about a disability. However, MPHA may ask an applicant to verify a disability if the applicant asks for a reasonable accommodation. MPHA shall not assume that a person has a disability.

An applicant may refuse to explain negative information because it may reveal the existence, nature or severity of a disability. The applicant has the right not to discuss the disability. However, MPHA may have the right to deny admission because of a lack of informationor negative information.

If an applicant requests a reasonable accommodation, the applicant has the burden to show that the accommodation is likely to enable the applicant to comply with the lease and that the applicant will accept necessary assistance. MPHA may make it a condition of an applicant’s admission to specific project based communities, Veteran’s Administration Supportive Housing (VASH) and the Family Unification Program (FUP) where supportive services are inherent in the eligibility criteria, to accept supportive services.

With or without a reasonable accommodation, the applicant shall complete the application process, meet eligibility criteria and shall comply with program requirements.

* + 1. Process for Requesting a Reasonable Accommodation

7.1 An applicant or an applicant’s representative should submit a request for a reasonable accommodation to their Eligibility Technician, who will schedule the Informal Hearing with a Hearing Panel.

* 1. Participant or Participant’s representative shall give a request for a reasonable accommodation to their Eligibility Technician, who will schedule the Informal Hearing with a Hearing Panel.

7.3 MPHA will process the request and if necessary investigate or obtain additional information within 30 days after receipt of the request, MPHA will inform the applicant or Participant of a denial, approval or the need for ongoing investigation.

7.4 If MPHA denies the request, MPHA will offer an Informal Hearing in compliance with this Administrative Plan.

8.0 **Physical Accessibility**

Where practicable, MPHA’s buildings will be physically accessible and usable by disabled persons. With each physical alteration, a cost base analysis may be needed. Cost base factors include but are not limited to the type of accommodations, cost, the size of MPHA’s overall housing business, number of units, type of units, budget, expenses and ability to recoup the cost.

Alterations in new construction shall comply with federal and state law and regulations. MPHA will comply with Sections 4.0 and 4.1 in determining whether to grant a physical accommodation. If a physical accommodation is unreasonable, MPHA may provide for program access at a different accessible location.

9.0 **Program Accessibility**

9.1 MPHA will make reasonable accommodations for qualified persons with disabilities to have access and use its programs. Except when necessary to maintain the fundamental nature of the program, MPHA will not use the eligibility criteria, which adversely impacts upon disabled persons.

9.2 **Section 8/HCV Program**

When issuing a housing voucher to a family with a disabled person, MPHA shall include a current listing of available accessible units known to it. If necessary, MPHA will offer other assistance to the family in locating an available accessible dwelling unit. MPHA shall consider the special problems of a disabled person in locating accessible housing when considering requests for extensions of housing vouchers.

If necessary, MPHA shall request an exception to fair market rents to allow a Section 8 voucher holder to rent an accessible unit.

10.0 **A Disabled Person’s Compliance with MPHA’s Rules, Policies or Procedures.**

A reasonable accommodation may include an exception to MPHA’s rules, policies and procedures. If an applicant or recipient can show that the failure to comply with a rule, policy or procedure was due to a disability, MPHA may reinstate the person’s status. This may include reinstating the person to a waiting list at an original spot or setting asidethetermination or eviction procedures.

An exception to MPHA’s rules, procedures and policies does not require a lowering or a waiver of the essential requirements of a lease or program. If a participant refuses services or another reasonable accommodation, and violating conduct continues, MPHA may take the same action as it would with a person without a disability.

A disabled person is required to show documentation of the disability and the need for the accommodation. Without such documentation, MPHA need not offer an accommodation such as a companion or service animal. If MPHA allows a disabled person to have a companion or service animal, the person must maintain health and safety standards in keeping the animal. Animals that are dangerous or potentially dangerous under federal law or regulation, state law or local ordinance are not permitted.

MPHA will not approve a reasonable accommodation move when MPHA is terminating assistance for or a reason unrelated to the disability.

11.0 **Informal Hearing**

If MPHA denies a request for a reasonable accommodation MPHA will offer the person the opportunity to request an Informal Hearing as provided in the this Administrative Plan.

12.0 **Conflict and Scope**

This Policy does not enlarge MPHA’s duty under any law, regulation or ordinance. If this Policy conflicts with applicable law, regulation or ordinance, the applicable law, regulation or ordinance shall prevail. This Policy shall apply to all MPHA programs designed to provide financial or advisory assistance to persons seeking housing, including the Family Self Sufficiency Program and Housing Counseling Programs.

APPENDIX D

# VIOLENCE AGAINST WOMEN ACT POLICY

**1.0** **Purpose**

The purpose of this Policy is to reduce Domestic Violence, Dating Violence, Sexual Assault and Stalking and to prevent homelessness by:

1. protecting the safety of Victims;
2. creating long-term housing solutions for Victims;
3. building collaborations among Victim service providers; and
4. assisting MPHA to respond appropriately to the violence while maintaining a safe environment for MPHA, employees, tenants, applicants, Section 8/HCV participants, program participants and others.

The Policy will assist the Minneapolis Public Housing Authority (MPHA) in providing rights under the Violence Against Women Reauthorization Act of 2013 (VAWA) to its applicants, public housing residents, Section 8/HCV participants and other program participants.

**2.0** **Mission Statement**

MPHA’s policy is to comply with the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4, 127 Stat. 54 signed into law on March 7, 2013. MPHA shall not discriminate against an applicant, public housing tenant, Section 8 program participant or other program participant on the basis of the rights or privileges provided under the VAWA.

This Policy applies to all MPHA housing programs including the Section 8/HCV Program, Family Self Sufficiency Program and Housing Counseling Programs.

**3.0 Definitions**

The definitions in this Section apply only to this Policy.

**3.1** **Affiliated Individual:** A spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis, or any individual, tenant, or lawful occupant living in the household of that individual.

**3.2** **Confidentiality:** Means that MPHA will not enter information provided to MPHA under 4.2 into a shared database or provide this information to any related entity except as stated in 4.3.

**3.3 Dating Violence:** Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the Victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship. 42 U.S.C. § 1437d (u) (3) (A)

**3.4** **Domestic Violence:** Means:

a) physical harm, bodily injury, or assault;

b) the infliction of fear of imminent physical harm, bodily injury or assault;

c) terroristic threats under Minn. Stat.§ 609.713 subd. 1; criminal sexual conduct under Minn. Stat. § 609.342., Minn. Stat.§ 609.343, Minn. Stat.§ 609.344, Minn. Stat.§ 609.345, Minn. Stat.§ 609.3451; or interference with an emergency call under Minn. Stat.§ 609.78 Subd. 2.

d. a felony or misdemeanor crimes of violence committed by a current or former spouse of the Victim, committed by a person with whom the Victim shares a child in common, committed by a person who is cohabitating with or has cohabitated with the Victim as a spouse, committed by a person similarly situated to a spouse of the Victim under the domestic or family violence laws of Minnesota, or committed 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 Minnesota. 42 U.S.C. § 1437d (u) (3) (B) and §13925 (a) (6) and Minn Stat § 518B.01.

**3.5** **Homeless, Homeless Individual, and Homeless Person:** A person who lacks a fixed, regular and adequate nighttime residence. Also includes: a) a person who is sharing the housing of other persons due to loss of housing, economic hardship or a similar reason; b) a person living in a motel, hotel, trailer park, or campground due to lack of alternative adequate accommodations; c) a person living in emergency or transitional shelter; d) a person abandoned in a hospital; e) a person awaiting foster care placement; or f) a person who has a primary nighttime resident that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings. 42 U. S. C. § 140403e-2(6).

**3.6** **Involuntary Displacement:** Occurs when a Victim has vacated or will have to vacate their housing unit because of Domestic Violence, Dating Violence, Sexual Assault or Stalking against the victim.

**3.7 Long-term Housing:** Is sustainable, accessible, affordable and safe housing for the foreseeable future and means that: a) the person rents or owns; b) is subsidized by a voucher or other program as long as the person meets the eligibility requirements of the program; c) is directly provided by MPHA, is not time limited and is available as long as the person meets the eligibility requirements of the program.

**3.8** **Perpetrator:** A person who commits an act of Domestic Violence, Dating Violence, Sexual Assault or Stalking against a Victim. Except for Sexual Assault and stalking, the Perpetrator and Victim must be current or former spouses, parent and child, persons with children in common, persons related by blood, persons who are residing or have resided together, or persons in a significant romantic relationship.

**3.9** **Sexual Assault:** Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the Victim lacks capacity to consent. 42 U.S.C. § 13925(a)(29. See Minn. Stat. §§ 609.342 to 609.3451.

**3.10 Stalking**: (a) to follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate the Victim; (b) to place under surveillance with the intent to kill, injure, harass or intimidate the Victim; (c) in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place the person in reasonable fear of the death of, or serious bodily injury to the Victim; or (d) to cause substantial emotional harm to the Victim, a member of the immediate family of the Victim or the spouse or intimate partner of the Victim. 42 U.S.C. § 13925(a)(30). Stalking is also defined in Minn. Stat. § 609.749..

**3.11 Victim**: Is a tenant, applicant, Section 8 participant and an Affiliated individual of such persons and who is the Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking under this Policy and who has timely and completely completed the certification under 4.2 or as requested by MPHA.

**4.0 Certification and Confidentiality**

**4.1 Failure to Provide Certification**

The person shall provide complete and accurate certifications to MPHA, owner or manager within 14 business days after the person receives a written request that the person complete the certification. If the request is mailed and accurately addressed to the person’s public housing or Section 8 address, receipt shall occur 3 business days after the mailing of the request and the person shall have 17 business days from the date of the mailing to return the certification. If the person does not provide a complete and accurate certification within the 14 or 17 business day period, MPHA, the owner or manager may take action to deny or terminate participation or tenancy under: 42 U. S. C. § 1437 l (5) & (6); 42 U. S. C. §1437 (d) (c) (3); 42 U. S. C. § 1437f (c)(9); 42 U. S. C. § 1437f (d)(1)(B)(ii) & (iii); 42 U. S. C. § 1437f (o)(7)(C) &(D); or 42 U. S. C. § 1437f (o)(20) or for other good cause.

**4.2 Certification**

1. MPHA May Request Certification.  If an applicant or Tenant claims protection under VAWA against denial of an application, termination of tenancy or other adverse action, MPHA may require the person who claims the VAWA protections to deliver a signed certification or other documentation concerning the incident or incidents.  If the person does not deliver this certification within the time period allowed (see 4.1 above), they will lose the legal protections provided by VAWA.
2. Acceptable Forms of Certification.  There are three ways to comply with a certification request by MPHA:
   * 1. Complete a certification form approved by HUD (Form HUD-50066 or other approved form); or
     2. Provide a record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency;  or
     3. Provide a document signed by the Victim and signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, or a mental health professional from whom the Victim has sought assistance in addressing the domestic violence, dating violence, or stalking.
3. Self-Certification; Request for Additional Information.  MPHA may accept self-certification by the person claiming to be a victim within the protection of VAWA.  If MPHA determines, within its own discretion, that the information provided in the certification is inaccurate or incomplete in material respects, MPHA may request additional information, including certified or attested.
4. Perjury.  The certification must state that the victim or any other person signing it or providing documentation are doing so under penalty or perjury (28. U.S.C. 1746).
5. Time Limit.  The applicant or Tenant must deliver certification in one of the three ways within the time period set forth in section 4.1 above.

**4.3 Confidentiality**

MPHA, the owner and manager shall keep all information provided to MPHA under this Section confidential. MPHA, owner and manager shall not enter the information into a shared database or provide to any related entity except to the extent that:

(a) the Victim requests or consents to the disclosure in writing;

(b) the disclosure is required for termination of Section 8 assistance under 42 U. S. C. § 1437f (c)(9); 42 U. S. C. § 1437f (d)(1)(B)(ii) & (iii); 42 U. S. C. § 1437f (o)(7)(C) &(D); or 42 U. S. C. § 1437f (o)(20) (See Section 5 in this Policy); or

(c) the disclosure is required by applicable law.

(d) The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault or stalking except at the written request or with the written consent of the individual providing the information. [24 C.F.R. 5.2007(a)(4)].

**4.4** **Compliance Not Sufficient to Constitute Evidence of Unreasonable Act**

The MPHA, owner or manager’s compliance with Sections 4.1 and 4.2 alone shall not be sufficient to show evidence of an unreasonable act or omission by them.

**5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy.**

**5. 1** MPHA shall not deny participation or admission to a program on the basis of a person’s Victim status, if the person otherwise qualifies for admission or assistance.

**5. 2** An incident or incidents of actual or threatened Domestic Violence, Dating Violence, Sexual Assault or Stalking will not be a serious or repeated violation of the lease by Victim and shall not be good cause for denying to a Victim admission to a program, terminating Section 8 assistance or occupancy rights, or evicting a tenant.

**5.3** Criminal activity directly related to Domestic Violence, Dating Violence, Sexual Assault or Stalking engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or Affiliated Individual of the tenant’s family is the Victim of that Domestic Violence, Dating Violence, Sexual Assault or Stalking.

**5.4** Notwithstanding Sections 5.1, 5.2 and 5.3 MPHA, an owner or manager may bifurcate a lease to evict, remove or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal activity directly relating to Domestic Violence, Dating Violence, Sexual Assault or Stalking against an Affiliated Individual or other individual without evicting, removing, terminating assistance to or otherwise penalizing the Victim of the violence who is also a tenant or lawful occupant. 42 U.S.C. §1437d(l)(6)(B).

**5.5** Nothing in Sections 5.1, 5.2 and 5.3 shall limit the authority of MPHA, an owner or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the Victim and issued to address the distribution or possession of property among the household members when the family breaks up.

**5.6** Nothing in Sections 5.1, 5.2 and 5.3 limits MPHA, an owner or manager’s authority to evict or terminate assistance to any tenant for any violation of lease not premised on the act or acts of violence against the tenant or a member of the tenant’s household. However MPHA, owner or manager may not hold a Victim to a more demanding standard than another tenant.

**5.7** Nothing in Sections 5.1, 5.2 and 5.3 limits MPHA, an owner or manager’s authority to evict or terminate assistance, or deny admission to a program if the MPHA, owner or manager can show an actual and imminent threat to other tenants, neighbors, their employees, or persons providing service to the property if the tenant family is not evicted or terminated from assistance or denied admission.

**5.8** Nothing in Sections 5.1, 5.2 or 5.3 limits MPHA, an owner or manager’s authority to terminate assistance to individuals who engage in criminal acts including but not limited to acts of physical violence against family members or others.

**5.9** A Section 8/HCV participant who moves out of a assisted dwelling unit to protect their health or safety and who: a) is a Victim under this Policy; b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and c) has complied with all other obligations of the Section 8 program may receive a voucher; and d) moves to a more safe environment as determined by MPHA, may receive a voucher and move to another Section 8 jurisdiction. 42 U.S.C. §1437f(r).

1. **Health, Safety and the Right to Peaceful Enjoyment of the Premises**

MPHA may evict, terminate assistance, deny admission to a program or trespass a Perpetrator from its property under this Policy. A Victim will act in a manner which will not disturb the peaceful enjoyment of the premises. A Victim may not be held to a more demanding standard than other Tenants. To comply with the lease, the Victim may have to take action which may include: a) obtaining and enforcing a restraining or no contact order or order for protection against the Perpetrator; b) obtaining and enforcing a trespass against the Perpetrator; c) enforcing MPHA or law enforcement’s trespass of the Perpetrator; d) preventing the delivery of the Perpetrator’s mail to the victim’s unit; e) providing certification information; f) comply with inspections; or g) other reasonable measures.

1. **Notice to Applicants, Participants, Tenants and Section 8 Managers and**

**Owners.**

MPHA shall provide notice to applicants, participants, tenants, managers and owners of their rights and obligations under Section 4.3 Confidentiality and Section 5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy.

1. **Grievance Procedure**

If MPHA denies a person’s request for VAWA certification, the person may have the opportunity to request an Informal Hearing as explained in the Section 8/HCV Administrative Plan. However, the person may not request an Informal Hearing if the participant did not return a complete and accurate certification within the 14 or 17 day period.

**9.0 Preferences**

Families who are Victims under VAWA will receive a preference in MPHA’s Section 8/HCV program Families who have been Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking shall provide: a) documentation signed by the Victim and an employee, agent, or volunteer of a Victim service provider, an attorney, or a medical professional from whom the Victim has sought assistance in addressing Domestic Violence, Dating Violence, Sexual Assault or Stalking or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. § 1746) to the professional’s belief that the incident(s) in question are bona fide incidents of abuse; or b) a federal, state, tribal, territorial or local police or court record to establish their Victim status under this policy.

1. **Reporting Requirements**

MPHA shall include in its 5 year plan a statement of goals, objectives, policies or programs that will serve the needs of Victims. MPHA shall also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to Victims, to help Victims obtain or maintain housing or to prevent the abuse or to enhance the safety of Victims.

12.0 **Conflict and Scope**: This Policy does not enlarge MPHA’s duty under any law, regulation or ordinance. If this Policy conflicts with applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this Policy conflicts with another MPHA policy or other portions of the Section 8/HCV Administration Plan, this Policy will control.

**APPENDIX E**

**CRIMINAL HISTORY BACKGROUND CHECK PROCEDURE**

**1.0 Purpose**

As authorized by Federal Regulation 24 C.F.R. 5.903 Subpart J, which states that a PHA may obtain criminal conviction records from law enforcement agencies to prevent admission of criminals to the Section 8 Housing Choice Voucher Program, and Federal Regulations 24 C.F.R 982.553 which authorizes PHAs to deny admission and to terminate assistance to persons who have engaged in “drug-related”, “violent” or “other criminal activity” that would threaten the health, safety or right to peaceful enjoyment of other residents, the owner, or PHA Personnel, the Minneapolis Public Housing Authority (MPHA) adopted a Section 8 Housing Choice Voucher Program Criminal History Background Check Procedure.

MPHA’s Section 8 Housing Choice Voucher Program will examine applicant and participant families’ background – including port-in participants and adult members of the families - for criminal activity as noted above. MPHA’s request for criminal records will also include registered sex offender status as authorized under the authority of United Stated Code 13663, to prevent dangerous sex offenders to federally assisted housing.

MPHA may deny admission or terminate assistance to a person who does not provide accurate and complete information or who does not cooperate with the process.

MPHA has no liability or responsibility to property owners, managers or other persons for the family’s behavior or conduct while in tenancy. Property owners and managers are responsible for screening tenants.

**A. Mandatory Criminal History Background Checks**

MPHA Section 8 must perform a criminal history background check to determine whether any household member:

1. Is subject to a lifetime sex offender registration in Minnesota or other states where the household member is known to have resided; or

2. Was convicted of drug related criminal activity for methamphetamine production on the premises of any federally assisted housing.

**B. Authorized Criminal History Background Checks**

MPHA Section 8 will perform a criminal history background check to determine if any household member has engaged in any drug-related criminal activity; any violent criminal activity; or any other criminal activity that would threaten the health, safety, welfare, or right to peaceful enjoyment of other residents, the owner, or MPHA staff, contractors or subcontractors.

**2.0 Authorizations Permitting the Release of Records**

Every applicant and participant, including port-in participants, shall provide Section 8 with a consent form signed by each adult household member to permit MPHA to obtain criminal records. Section 8 will perform a check of local and national records to check for criminal conviction histories. If the records indicate criminal activity MPHA will determine eligibility based upon MPHA’s Applicant Screening Guidelines.

If MPHA denies admission or terminates assistance based upon criminal background records Section 8 will:

A. Provide a copy of the criminal record to the subject of the record; and

B. Give the subject of the criminal record an opportunity to dispute the accuracy and relevance of that record.

If Section 8 denies admission or terminates participation, the applicant or port in participant may timely make a written request for an informal review in accordance with federal regulation.

If MPHA determines the applicant is ineligible, MPHA will remove the applicant from the Waiting List. The applicant may reapply when the Section 8 Waiting List is reopened. If MPHA determines a port in participant is ineligible MPHA will take action to terminate program participation. If MPHA determines that a participant has engaged in drug related criminal activity or violent criminal activity, or criminal activity that threatens the health, safety, welfare or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises, the owner or MPHA Personnel, MPHA will terminate program participation.

MPHA shall pay for the costs of obtaining the criminal records and provide a copy of the record to the applicants and participants who are denied or terminated. However, applicants and participants shall pay for the costs of other records or other documents that they obtain to use to refute the accuracy of the records presented by MPHA.

MPHA will deny admission or terminate assistance to any person who does not sign consent forms or who refuse to cooperate with the criminal history background check.

1. **Record Maintenance**

The MPHA will keep criminal records confidential and will not misuse or improperly disseminate them. MPHA may use criminal records to screen applicants, to terminate assistance or in court or administrative hearings.

MPHA will not place the criminal records in the participants’ files. MPHA will disclose the records to MPHA’s officers or employees or authorized representatives or persons who have a job related need for the information. If MPHA discloses the criminal records in a judicial proceeding, MPHA is not responsible for controlling access to or knowledge of the records after the disclosure. See 24 C.F.R. 5.903 (e) (2) (iv).

**4.0 Record Disposition**

MPHA will destroy the criminal records and sex offender records after MPHA’s purpose for which the records were requested is accomplished and all applicable statutes of limitations have run.

**5.0 Project-Based Criminal Records’ Principle**

Within the Project Based Voucher Program there may be housing communities that provide housing and services to individuals and families who have criminal histories and/or other related conduct (with exception of lifetime registered sex offenders and applicants convicted of drug related criminal activity for methamphetamine production on the premises of federally assisted housing).

Where a specific Project Based Voucher housing community allows for participants with criminal histories and/or other related conduct and the applicant or participant meets all other MPHA and MPHA’s partner requirements for eligibility, MPHA may permit participation in the specific Project Based Housing Program. If, after one year of participation, the individual or family wants to obtain a tenant based voucher, the individual or family shall qualify under MPHA Applicant Screening Guidelines like all applicants on MPHA’s tenant based voucher waitlist.

**6.0 Definitions**

**Adult** means a person who is 18 years of age or older or who was convicted of a crime as an adult under federal, state, or tribal law.

**Applicant** means anyone applying to the Section 8 Housing Choice Voucher Program including additions to currently assisted households.

**Drug** means a controlled substance as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802).

**Drug-Related Criminal Activity** means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. Also, illegal means any activity, even in the absence of an arrest or conviction that violates a state statute, ordinance, charter provision, rule or regulation governed by the Minnesota Rules of Criminal Procedures..

**Law Enforcement Agency** is the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.

**Port in Participant** is a family that was issued a Housing Choice Voucher from a housing agency anywhere in the United States and elects to use that voucher to move into Minneapolis.

**Violent Criminal** **Activity** is 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.

**7.0 Conflict and Scope**

This Policy does not enlarge MPHA’s duty under any law, regulation or ordinance. If this Policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this Policy conflicts with another MPHA policy such another provision of the Section 8/HCV Administration Plan, this Policy will control.

**MPHA APPLICANT SCREENING GUIDELINES**

In compliance with federal regulations 24 C.F.R. § 960.203(d) and 24 CFR 982.552 (c)(2) MPHA will give each applicant consideration “to the time, nature, and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects.” Federal regulations, 24 C.F.R. § 982.553, permit MPHA to establish standards to deny admission to the HCV Program if a household member has engaged in certain activity and to establish a “reasonable time” during which the person has not engaged in the criminal activity.

Such criminal activity may include:

1. drug-related criminal activity,

2. violent criminal activity; or

3. criminal activity that would threaten the health, safety or right to peaceful enjoyment of other residents or persons residing in the immediate vicinity;

4. criminal activity that would threaten the health or safety of the owner, property manager staff, MPHA staff, or any MPHA vendor or agent.

MPHA will not consider the crimes after the elapsed timeframe listed below except for lifetime bans, if the crime is the sole reason for denying admission to the HCV Program. This chart does not limit or otherwise impact other MPHA screening criteria that consider past, present and/or likely future behavioral, financial, and personal conduct.

If a crime found on an applicant’s criminal background check is not included on this list, MPHA will determine the appropriate length of time after sentence completion before the applicant meets MPHA’s criteria for admission. MPHA may consider a similar crime on the list, the offending conduct and the length of the sentence.

Definition of Sentence is the punishment ordered by the court to be imposed upon a person convicted of a crime and includes the time on probation and parole.

Definition of a Conviction is the final judgment including but not limited to a finding of guilty or a plea of guilty or nolo contendere and does not include a pardon or a reversal.

Regardless of the timeframes in these Guidelines, MPHA may deny an application based upon a pattern and practice of misconduct.

**Screening Guidelines**

|  |  |  |
| --- | --- | --- |
| **Criminal Activity** | | **Criteria for Admission** |
| **1. Arson** | | **10 years after sentence is complete** |
| **2. Assault** | |  |
| **A. Fifth Degree** | | **2 years after sentence is complete** |
| **B. Fourth Degree** | | **2 years after sentence is complete** |
| **C. Third Degree** | | **2 years after sentence is complete** |
| **D. Second Degree** | | **5 years after sentence is complete** |
| **E. First Degree** | | **5 years after sentence is complete** |
| **3. Burglary** | | **3 years after sentence is complete** |
| **4. Child Endangerment** | | **3 years after sentence is complete** |
| **5. Damage to Property** | | **1 year after sentence is complete** |
| **6. Disorderly Conduct** | | **1 year after sentence is complete** |
| **7. Disorderly House** | | **1 year after sentence is complete** |
| **8. Domestic Assault**  **A. Misdemeanor**  **B. Gross Misdemeanor**  **C. Felony** | | **2 years after sentence is complete**  **2 years after sentence is complete**  **5 years after sentence is complete** |
| **9. Drugs**  **A. Intent To Sell/Distribute** | | **5 years after sentence is complete** |
| **B. Loitering with Intent** | | **2 years after sentence is complete** |
| **C. Manufacture of Meth** | | **Banned for life** |
| **D. Possession of Controlled**  **Substance or Paraphernalia** | | **3 years after sentence is complete** |
| **10. Eviction or Lease Termination from Housing for Drug-Related Criminal Activity** | | **5 years after eviction or lease termination** |
| **11. False Imprisonment** | **3 years after sentence is complete** |
| **12. Fraud**  **A. General**  **B. Federal Public Assistance**  **Programs** | **2 years after sentence is complete**  **5 years after sentence is complete** |
| **13. Hate/Bias Crimes** | **3 years after sentence is complete** |
| **14. Indecent Conduct/Indecent Exposure** | **2 years after sentence is complete** |
| **15. Identify Theft** | **3 years after sentence is complete** |
| **16. Interference with an Emergency Call** | **2 years after sentence is complete** |
| **17. Kidnapping** | **5 years after sentence is complete** |
| **18. Malicious Punishment of a Child** | **3 years after sentence is complete** |
| **19. Murder/Manslaughter** | **5 years after sentence is complete** |
| **20. Possession of an Illegal Weapon**  **or Illegal Discharge of Weapon** | **3 years after sentence is complete** |
| **21. Public Urination** | **1 year after sentence is complete** |
| **22. Robbery**  **A. Aggravated**  **B. Simple** | **5 years after sentence is complete**  **3 years after sentence is complete** |
| **23. Sex Crimes**  **A. Criminal Sexual Conduct**  **B. Promoting or Soliciting Prostitution**  **C. Prostitution**  **D. Currently Registered Sex Offender**  **E. Lifetime Registered Sex Offender** | **5 years after sentence is complete**  **5 years after sentence is complete**  **3 years after sentence is complete**  **5 years after registration expires**  **Banned for life** |
| **24. Terroristic Threats** | **2 years after sentence is complete** |
| **25. Theft/Shoplifting/Check Forgery,**  **Credit Card Fraud/Related Crimes**  **A. $500 or less or a sentence of**  **90 days or less**    **B. $501 to $1000 or a sentence**  **of 91 to 364 days**  **C. $1001 to $5000 or a sentence**  **of 1 to 5 years**  **D. $5001 or more or a sentence**  **of more than 5 years** | **6 months after sentence is complete**  **1 year after sentence is complete**  **2 years after sentence is complete**  **3 years after sentence is complete** | |
| **26. Trespass** | **Once trespass is removed** | |

**DEFINITIONS**

1. **ARSON –** The intentional burning of a building, dwelling or structure.
2. **ASSAULT –** An act done with intent to cause fear in another of immediate bodily harm or death. Assault does not necessarily include actual contact.
3. **BURGLARY –** An act when one enters a building or dwelling without permission and with the intent to commit a crime, or enters a building or dwelling without permission and commits a crime while in the building or dwelling.
4. **CHILD ENDANGERMENT**- When one intentionally or recklessly causes or permits a child to be placed in a situation likely to substantially harm the child’s physical, mental or emotional health.
5. **CONFLICT OF LAW –** If any applicable law, regulation or ordinance conflicts with these guidelines, the law, regulation or ordinance shall control where applicable. In such cases the remaining portions of the guidelines will remain in effect. Also, to the maximum extent permitted the guidelines shall control.
6. **CONTROLLED SUBSTANCE –** Is defined by 21 U.S.C. § 802 or as amended or renumbered.
7. **CRIMINAL SEXUAL CONDUCT (CSC) –** Engaging in unlawful sexual conduct with another person.
8. **DAMAGE TO PROPERTY –** The act of damaging another’s property.
9. **DISORDERLY CONDUCT** – Behavior that tends to disturb the public peace, offends public morals, or risk public safety.
10. **DOMESTIC ASSAULT** – Assault on a family or household member.
11. **DRUG-RELATED CRIMINAL ACTIVITY –** The illegal manufacture, sale, distribution, use, or possession of a controlled substance and includes a petty misdemeanor.
12. **FALSE IMPRISONMENT –** A confinement or restraint of a person to a bounded area without justification or consent.
13. **FRAUD –** A misrepresentation of a present or past fact by false allegations or deception, which causes another to rely upon it.
14. **HATE/BIAS CRIMES –** A crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

**15. IDENTITY THEFT** – The fraudulent taking and use of another’s identifying or personal data or documents.

**16**. **INDECENT CONDUCT/INDECENT EXPOSURE** – Engaging in or offering or attempting to engage in: lewd or lascivious conduct; sexual intercourse or other sexual conduct; indecent or lascivious exposure or use of the human body, or any part thereof; or fondling the unclothed genitals of him/herself or another person in a public place.

**17. INTERFERENCE WITH AN EMERGENCY CALL** – Obstructing or attempting to obstruct another from calling the police, paramedics, or 911.

**18. KIDNAPPING** – The act of seizing and taking away a person without their consent or, if the person is under 16, without the consent of the person's parents or other legal custodian.

**19. MALICIOUS PUNISHMENT OF A CHILD** – Punishing a child in such a way that is almost certain to cause injury, without just cause or excuse.

**20. MANSLAUGHTER** – Criminal negligence or commission of a crime that results in the death of a person.

**21. MURDER –** Unlawful killing of a person, either from an intent to kill or as the result of an act so reckless that it demonstrates a complete lack of regard for human life.

**22. PAROLE –** Release of a prisoner from imprisonment before the full sentence has been served; although not available under some sentences, parole is usually granted for good behavior on the condition that the parolee regularly report to a law enforcement officer for a specified period.

**23. PROBATION –** A court-imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the person criminal to prison.

**24. PROSTITUTION –** Engaging, offering or agreeing to engage in sexual penetration or sexual contact for hire.

**25.** **PUBLIC URINATION** – Any person who urinates or defecates on any public street, alley, sidewalk or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where such act could be observed by any member of the public, except in such place that has been designated as a restroom.

**26. ROBBERY –** Taking another’s property without the owner’s consent by violence or intimidation.

**27. SENTENCE –** The punishment ordered by the court to be imposed upon a person convicted of a crime and includes the time on probation and parole.

**28. TERRORISTIC THREAT –** A threat to commit any crime of violence with the purpose of terrorizing another or causing the evacuation of a building.

**29. THEFT –** Taking another’s property without the owner’s consent. Includes but is not limited to theft by deception or trick, embezzlement, larceny, swindling, shoplifting, check forgery and auto theft.

**30. TRESPASS –** An unlawful interference with one’s property or rights. This may include entering or remaining on another’s property when one knows he is not authorized to be there.

**APPENDIX F**

**CITY CONTRACTED PROJECTS**

1. **Program Integrity Coordinator**

MPHA and the City of Minneapolis (The City) have entered into a Professional Services Contract for “Program Integrity Services”. The City has established a Sergeant level position within its Police Department to perform investigation and program integrity coordination activities for MPHA’s Section 8 Housing Choice Voucher Program

**APPENDIX G**

**CONDUCTING BUSINESS IN ACCORDANCE WITH CORE VALUES AND ETHICAL STANDARDS**

**Code of Conduct -**

The Minneapolis Public Housing Authority expects employees to embrace its Agency’s professional values and demonstrate those values while performing their work responsibilities. Ethical practices are central to our ability to provide the best services to our service population and clients. The Agency’s values support its commitment to improving people’s lives through decent, safe and affordable housing; our service commitment is client-focused and delivered, at all times, in the interest of the public we serve. We developed a set of Work Rules – or Code of Conduct - that demonstrates our commitment to act with integrity, professionalism and respect when performing our duties.

Further, the credibility of the programs administered by the Minneapolis Public Housing Authority requires that standards of conduct and work rules be maintained that govern the performance of its employees who are engaged in the awards and administration of contracts in conformance with 24 CFR 84.42 and 24 CFR 85.36(bX3) which reflect the Department of Housing and Urban Development's Core Values and Ethical Standards.

The Work Rules were designed to help staff understand their obligations as they work in the public eye; to ensure staff meet the standards of conduct expected of them by Federal regulation; and to ensure that the Agency works for the benefit of the public in an ethical and consistent manner.

Specific to compliance with the conflict of interest requirements of the HCV program cited in 24 CFR 982.161 and the prohibition of the solicitation or acceptance of gifts or gratuities in excess of a nominal value by an officer or employee of the PHA or any contractor, subcontractor or agent of the PHA, is the following excerpt from MPHA’s Work Rules:

**9. CONFLICT OF INTEREST**

MPHA employees must disclose any association with, employment by, or financial interest in, any organization, individual or property (including Section 8 property) which could be affected by an action or decision which the employee or other MPHA employees may take or make as part of their duties. The disclosure must be made to the Executive Director, in writing, completely describing the matter requiring the action or decision and the nature of the potential conflict of interest, and must be submitted no later than one week after the employee becomes aware of the potential conflict. Employees shall not engage in conflicts of interest with respect to their employment. The following types of relationships or conduct are strictly prohibited:

9.1 Employees may not work for wages, salary, gratuities, or other financial gain outside the scope of their MPHA employment if such work interferes or conflict with the duties or responsibilities of their MPHA employment, constitutes a conflict of interest, or gives the appearance of a conflict of interest; this includes employment or financial interests in:

A. Public or private organizations or individuals who represent a source of funding for MPHA-administered programs.

B. Public or private organizations or individuals who receive funds through or from the MPHA.

C. Public or private organizations or individuals who govern, regulate, or monitor MPHA-administered programs.

9.2 Employees may not own or manage real property in which Section 8 participants reside and which is located within the corporate limits of the City of Minneapolis. While the ownership or management of such property outside the City of Minneapolis is not prohibited, disclosure is required and the use of information obtained during the course of MPHA employment regarding the identity or housing status of Section 8 participants or applicants in connection therewith is strictly prohibited.

9.3 Eligible employees may participate in MPHA programs which provide financial assistance for the financing of real property, provided that:

A. The employee qualifies for the program;

B. All applicable state disclosure requirements are met;

C. MPHA has the sole discretion to reassign work duties and/or responsibilities to allow the employee to participate in the program; and

D. Participation does not give the appearance of a conflict of interest.

9.4 During off-duty hours, employees may serve on governmental commissions or boards, provided the activity does not conflict with the duties or responsibilities of their MPHA employment, constitute a conflict of interest, or give the appearance of a conflict of interest.

9.5 Employees, their spouses, and their dependent children shall not solicit or accept gratuities, favors, loans, or items of monetary value from residents, applicants, program participants, contractors, or potential contractors. Employees who receive gifts or gratuities prohibited by this policy shall promptly return them to the donor. This prohibition applies to any person who has sought or is seeking a business or financial relationship with the MPHA, has interests which may be affected by the action or inaction of the MPHA or its employees, is attempting to affect the employee's official action, or conducts operations which are regulated by the MPHA. The Executive Director may interpret and make reasonable exceptions to this rule including the following *permissible* activities:

A. Employees may infrequently accept food and beverages in the ordinary course of meetings which are incidental to the transaction of official business;

B. Employees may accept gifts, favors, or entertainment where there is an obvious family relationship between the donor and the employee and where it is clear that the family relationship is the motivating factor for the gift, favor, or entertainment;

C. Employees may purchase articles at advantageous rates which are offered to public employees as a class;

D. Employees may accept loans from financial institutions at customary rate and terms;

E. Employees may accept unsolicited advertising or promotional materials of nominal value;

F. Employees may accept incidental transportation, provided it is furnished in connection with the employee's duties and is of a type customarily provide by the organization.

The Executive Director shall interpret this conflict of interest rule on a case-by-case basis and may permit reasonable exceptions when requested to do so. Decisions concerning such exceptions shall be in writing, shall state the reason(s) for the exception, and shall be maintained in the involved employee's personnel file.

Failure of staff to adhere to the obligations outlined in the attached Work Rules may result in formal disciplinary action.

Further, in accordance with 24 CFR 982.161, neither the PHA nor any of its contractors or

subcontractors may enter into any contract or arrangement in connection with the Housing Choice Voucher Program in which any of the following classes of persons has any interest, direct or indirect, during his or her tenure with the HA or for one year thereafter:

1. Any present or former member or officer of the HA;

2. Any employee of the HA or any contractor, subcontractor, or agent of the HA who formulates policy or who influences decisions with respect to the programs;

3. Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to the HA’s programs; or

4. Any member of Congress of the United States.

No Commissioner or HA employee may solicit any gift or consideration of any kind, nor may any HA employee accept or receive a gift from any person who has an interest in any matter proposed or pending before the HA.

**APPENDIX H**

**NON-ELDERLY PERSONS WITH DISABILITIES PLAN TO AFFIRMATIVELY FURTHER FAIR HOUSING**

The Minneapolis Public Housing Authority (MPHA) recognizes its affirmative duty to be accessible to people with disabilities and to provide them with an equal opportunity to participate in the Housing Choice Voucher Program. We ensure consistent compliance with all federal, state and local laws through a standardized Reasonable Accommodation Policy, a Limited English Proficiency Policy, and a Violence Against Women Act Policy. These policies are essential parts of our Agency’s Section 8 Housing Choice Voucher Administrative Plan. In addition to compliance with these policies, MPHA will take the following steps to affirmatively further Fair Housing relevant to the 400 vouchers awarded to our Housing Authority under the Notice of Funding Availability "Rental Assistance for Non-Elderly Persons with Disabilities" (CFDA #14.871):

* Provide “auxiliary aids” where needed to facilitate effective communications with applicants and participants with impaired sensory, manual, or speaking skills including sign language and other interpreters for individuals with hearing impairments or Limited English Proficiency;
* Provide federal, state, and local information to voucher holders describing unlawful discrimination and recourses available to them in the event they believe they are victims of a discriminatory act. We will make that information available during the family’s briefing session, and we will provide applicable fair housing information as well as HUD’s Discrimination Complaint Form as part of the voucher holder’s briefing packet. If requested, staff will assist voucher holders in completing and submitting the HUD Housing Discrimination Complaint Form.
* Provide all persons receiving a voucher under the above NOFA, the Federal Fair Housing Complaint Hotline: 1-800-669-9777 and for persons with hearing or speech impairments the number via TTY by calling the Federal Information Relay Service at 1/-800-877-8339
* Assure that Fair Housing Posters remain posted throughout the Agency including HCV lobby and that the Equal Opportunity Statement is on all documents that reach the public.

1. Text of 45 CFR 260.31 follows. [↑](#footnote-ref-1)