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# Housing Authority of the County of San Joaquin

## Administrative Plan for the Housing Choice Voucher Program



**Revision Date: October 1, 2017**

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# Chapter 1

## STATEMENT OF POLICIES AND OBJECTIVES

### INTRODUCTION

**T**he Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which rectified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program and is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based programs are federally funded and administered for the County of San Joaquin by the Housing Authority of the County of San Joaquin through its Housing Choice Voucher program office.

Administration of the Housing Choice Voucher Program and the functions and responsibilities of the Housing Authority staff shall be in compliance with the Housing Authority's Administrative Plan and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

### **Jurisdiction**

The jurisdiction of the Housing Authority is the County of San Joaquin.

**A. HOUSING AUTHORITY MISSION STATEMENT**

The Housing Authority of the County of San Joaquin is dedicated to providing and advocating for affordable and attractive living environments for those of modest means and to give individuals and families opportunity to continuously improve themselves and achieve self-sufficiency.

**B. HOUSING AUTHORITY VISION STATEMENT**

The Housing Authority of the County of San Joaquin will be nationally recognized as an innovative agency and a leader in creating community partnerships that result in individuals and families having hope for a better tomorrow.

**C. LOCAL OBJECTIVES**

The Housing Choice Voucher Program is designed to achieve three major objectives:

1. To provide decent housing for very low-income families while maintaining their rent payments at an affordable level.
2. To promote freedom of housing choice and attain deconcentration of very low-income families of all races and ethnic backgrounds.
3. To provide an incentive to private property owners to rent to very low-income families by offering timely assistance payments.

In addition, the Housing Authority has the following goals for the program:

1. To assist the local economy by increasing the occupancy rate and the amount of money flowing to the community.
2. To encourage self-sufficiency of participant families and to assist in the expansion of family opportunities which address educational, socioeconomic, recreational and other human service needs.
3. To create positive public awareness and expand the level of family, owner, and community support in accomplishing the Housing Authority's mission.
4. To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
5. To administer an efficient, high-performing agency through continuous improvement of the Housing Authority's support systems and commitment to our employees and their development.

**D. PURPOSE OF THE ADMINISTRATIVE PLAN [24 CFR 982.54]**

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Administrative Plan. The Housing Choice Voucher Program was implemented as of October 1, 1999, and pre-merger Housing Voucher tenancies and Over Fair Market Rent tenancies converted automatically to Housing Choice Voucher tenancies on that date. All other existing contracts remained in effect until the family's second reexamination after the merger date or when a new lease was executed.

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

This Administrative Plan is a supporting document to the Housing Authority's Agency Plan, and is available for public review as required by 24 CFR 903.

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance - Housing Choice Voucher Program

Local rules that are made part of this Administrative Plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

#### **E. RULES AND REGULATIONS [24 CFR 982.52]**

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

#### **F. TERMINOLOGY**

The Housing Authority of the County of San Joaquin is referred to as "Housing Authority" throughout this document.

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

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

"Landlord" and "owner" are used interchangeably.

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

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

The Section 8 program is also known as the Housing Choice Voucher Program.

“HQS” means the Housing Quality Standards required by regulations as enhanced by the Housing Authority.

“Failure to Provide” refers to all requirements in the Family Obligation (see Chapter 15, “Denial or Termination of Assistance”).

“Merger date” refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher program into the Housing Choice Voucher Program.

See the Glossary for other terminology.

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

It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. For protection for victims of domestic violence, dating violence, sexual or stalking refer to Chapter 25, Violence Against Women Reauthorization Act of 2013 (VAWA).

The Housing Authority shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, familial status, creed, national or ethnic origin (called “protected classes”), ancestry, age, familial or marital status, disability or sex (including sexual orientation and gender identity/expression) or source of income. Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

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

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

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

The Housing Authority offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the California Relay Service or by utilizing the

Telecommunications Device for the Deaf (TDD) TeleType (TTY) at 711 or 1-800-855-7100.

## **H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.204]**

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

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the Housing Authority will treat a person differently than anyone else. The Housing Authority's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on Housing Authority forms and letters.

This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the Housing Authority, when the Housing Authority initiates contact with a family including when a family applies, and when the Housing Authority schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment; or
- Being regarded as having such impairment.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

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

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

- An undue administrative burden is one that requires a fundamental alteration of the essential functions of the Housing Authority (i.e., waiving a family obligation).
- An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the Housing Authority.

The Housing Authority will provide a written decision to the person requesting the accommodation within fourteen (14) days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the Housing Authority's decision.

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

The Housing Authority will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct. The Housing Authority will deny admission to those applicant households with individuals who are, at the time of consideration for admission, using medical marijuana. This is in accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661).

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

### **Verification of Disability**

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

### **Outreach**

Outreach efforts will include notification of the Housing Authority's 504 Advisory Board as well as all other media and agencies listed in the Housing Authority's Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for Admission" in Chapter 3).

### **Applying for Admission**

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

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

**I. LIMITED ENGLISH PROFICIENCY (LEP) POLICY**

In accordance with Federal guidelines, the Housing Authority may make reasonable efforts to provide and arrange free language assistance for persons with Limited English Proficiency (LEP). An LEP individual is a person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. This policy was developed to serve applicants, participants, and/or persons eligible for housing assistance.

The Housing Authority has developed a Language Access Plan (LAP) to ensure its programs and services are accessible to person(s) with LEP.

**J. TRANSLATION OF DOCUMENTS**

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

- o Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
- o Estimated cost to Housing Authority per client of translation of English written documents into the other language.
- o The availability of local organizations to provide translation services to non-English speaking families.
- o Availability of bilingual staff to provide translation for non-English speaking families.

The Housing Authority has bilingual staff and/or translation services available to assist non-English speaking families in languages that have been identified in accordance with the Housing Authority’s Language Access Plan (LAP) .

**K. MANAGEMENT ASSESSMENT OBJECTIVES**

The Housing Authority operates its housing assistance programs with efficiency and can demonstrate to HUD auditors that the Housing Authority is using its resources in a manner that reflects its commitment to quality and service.

The Housing Authority policies and practices are consistent with the areas of measurement for the following HUD Section Eight Management Assessment Program (SEMAP) indicators:

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Reexaminations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections



13. Lease-up
14. Family Self-Sufficiency Enrollment and Escrow Account Balances
15. Bonus Indicator Deconcentration

Supervisory quality control reviews will be performed by a Housing Authority Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement
- HQS Quality Control

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

**L. RECORDS FOR MONITORING HOUSING AUTHORITY PERFORMANCE**

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

In addition to the required SEMAP documentation, a supervisor or designated staff audits the following functions:

- Not less than five percent (5%) of reexaminations
- Not less than five percent (5%) of new applications

**M. PRIVACY RIGHTS [24 CFR 982.551 AND 24 CFR 5.212]**

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

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

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

The Housing Authority's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff. The Housing Authority will not collect or

maintain sensitive personally identifiable information without proper authorization. Additionally the Housing Authority will only collect Personally Identifiable Information (PII) that is needed for the purpose for which it is collected.

- Personally Identifiable Information is defined in the Office of Management and Budget (OMB), M-07-16 as “. . . information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.”
- Sensitive Personally Identifiable Information is PII that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver’s license numbers, medical records, and financial account numbers such as credit or debit card numbers.

Housing Authority staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action (reference Section 906 of the Personnel Policy).

The Housing Authority utilizes HUD’s Enterprise Income Verification (EIV) system as an on-line source for income verification before or during a reexamination, through an independent source that systematically and uniformly maintains income information in a computerized format for a large number of individuals. This system enables the Housing Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Housing Authority staff may not disclose EIV data to any third parties (EIV data is property of HUD and protected by the Federal Privacy Act). Staff may only provide EIV data to the individual (only) to whom the record pertains and to the receiving HA during a portability transfer (refer to Chapter 13 Moves with Continued Assistance/Portability). EIV data of minors may be provided to the minor’s parent or guardian.

All files must be signed for when removed from the secured file storage area.

## **N. FAMILY OUTREACH**

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

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

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

**O. OWNER OUTREACH**

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

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

The Housing Authority maintains a list of interested landlords and a list of units available for the Housing Choice Voucher Program and updates this list at least every 30 days. When listings from owners are received, they will be compiled by the Housing Authority staff by bedroom size.

The Housing Authority will maintain a list of available housing units submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of owners and units will be provided upon request, at briefings, and can be viewed on our website at [www.hacsj.com](http://www.hacsj.com).

The staff of the Housing Authority initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

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

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

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

The Housing Authority shall periodically:

- Develop working relationships with owners and real estate broker associations.
- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

- Request the HUD Field office to furnish a list of HUD held properties available for rent.
- Explain the program, including equal opportunity requirements and nondiscrimination requirements, including the Fair Housing Amendment Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

# Chapter 2

## ELIGIBILITY FOR ADMISSION

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

### INTRODUCTION

**T**his chapter defines both HUD and the Housing Authority's criteria for admission and denial of admission to the program. The policy of this Housing Authority is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The Housing Authority staff will review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information if needed, and to receive an explanation of the basis for any decision made by the Housing Authority pertaining to their eligibility.

**A. ELIGIBILITY FACTORS [982.201(b)]**

The Housing Authority accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

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

The HUD eligibility criteria are:

- An applicant must be a “family”
- An applicant must be within the appropriate income limits

An applicant must furnish social security numbers for all family members (refer to Section D of this chapter, “Mandatory Social Security Numbers”)

- An applicant must furnish declaration of citizenship or eligible immigrant status and verification where required
- At least one member of the applicant family must either be a U.S. citizen or have eligible immigration status before the Housing Authority may provide any financial assistance.

Reasons for denial of admission are addressed in Chapter 15, “Denial or Termination of Assistance” of this Administrative Plan. These reasons for denial constitute additional admission criteria. The family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of citizenship/eligible immigrant status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher, unless the Housing Authority determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

If the applicant is a victim of domestic violence, dating violence, sexual assault, or stalking, 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies.

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

The applicant must qualify as a family. *Family* includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
  - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - (ii) An elderly family;
  - (iii) A near-elderly family;

- (iv) A disabled family;
- (v) A displaced family; and
- (vi) The remaining member of a tenant family.

### **Head of Household**

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

### **Spouse of Head**

Spouse means the husband or wife of the head.

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

### **Co-Head**

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

### **Live-in Attendants [24 CFR 982.316]**

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

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

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

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

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

A live-in aide may only reside in the unit with the approval of the Housing Authority. Written

verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near elderly fifty to sixty-one (50-61) years old or disabled.

The Housing Authority will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and Chapter 1, Section H, "Reasonable Accommodations Policy" of this Administrative Plan. Verification must include the hours the care will be provided.

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

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with Housing Choice Voucher or public housing assistance under the 1937 Act.

#### **Split Households Prior to Voucher Issuance [24 CFR 982.315]**

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

- Which family member applied as head of household
- Which family member retains the children or any disabled or elderly members
- Restrictions that were in place at the time the family applied
- Recommendations of social service agencies or qualified professionals such as children's protective services.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program
- Other factors specified by the Housing Authority

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), the Housing Authority must ensure that the victim retains assistance.



- The factors to be considered in making this decision under the PHA policy may include:
  - Whether the assistance should remain with family members remaining in the original assisted unit.
  - The interest of minor children or of ill, elderly, or disabled family members.
  - Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.
  - Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and whether the abuser is still in the household.

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

### **Multiple Families in the Same Household**

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

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least fifty-one percent (51%) of the time will be considered members of the household.” Fifty-one percent (51%) of the time” is defined as 183 days of the year, which do not have to run consecutively. There will be a self-certification required of families who claim joint custody or temporary guardianship. When both parents are on the waiting list and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

### **Student Eligibility [24 CFR 5.612]**

Restrictions on assistance to students enrolled in an institution of higher education are as follows:

No assistance shall be provided under section 8 of the 1937 Act to any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965;
- Is under 24 years of age;
- Is not a veteran of the U.S. military;
- Is unmarried;
- Does not have a dependent child;
- Is not a person with disabilities and was not receiving assistance under Section 8 of the 1937 Act as of November 30, 2005; and

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

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

To be eligible for assistance, an applicant must have an annual income at the time of admission that does not exceed the very low-income limits for occupancy established by HUD. (See Chapter 4, Section F for definition of income targeting.)

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

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

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

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

**Portability**

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

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

Families are required to provide verification of Social Security Numbers (SSN) for all family members prior to admission. This requirement also applies to persons joining the family after

admission to the program. Failure to furnish verification of Social Security numbers is grounds for denial or termination of assistance.

### Disclosure Requirements

Disclosure of Social Security numbers is required. The requirements of this section apply to applicants and participants. Each applicant and participant must submit complete and accurate Social Security numbers assigned to the applicant and to each member of the applicant's household.

Each person, except those age 62 years of age or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must submit a valid SSN if the participant has:

- Not previously disclosed a Social Security number;
- Previously disclosed a Social Security number that HUD or the Social Security Administration (SSA) determined was invalid; or
- Been issued a new Social Security number

Once a participant has disclosed and the Housing Authority has verified each SSN, the following rules apply:

*Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN.* When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following to the Housing Authority at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s).

*Addition of new household member who is under the age of 6 and has no assigned SSN.* When a participant or applicant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant/applicant shall be required to provide the complete and accurate SSN assigned to each new child within 90 calendar days of the child being added. For new admission, the 90-Day clock doesn't start ticking until the date of lease-up.

The Housing Authority shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the participant's/applicant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant/applicant.

If the participant/applicant does not provide requested SSN within the authorized time period, the Housing Authority will impose appropriate penalties in accordance with 24 CFR 5.218.

The mandatory SSN requirements do not apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families.

**E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR PART 5, SUBPART E]**

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

For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

**Mixed Families**

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

**All members ineligible**

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

**Non-citizen students**

As defined by HUD in the non-citizen regulations (24 CFR 5.522), they are not eligible for assistance.

**Appeals**

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

**Verification of Status before Admission**

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

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

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violations of the lease within the past five (5) years. A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the Housing Authority, including HUD Form 9886.

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

- The family must not have violated any family obligation during a previous participation in the Housing Choice Voucher program for five (5) years prior to final eligibility determination.
- The Housing Authority will make an exception if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed to the Housing Authority or another Housing Authority as a result of prior participation in any federal housing program within fifteen (15) days of Housing Authority notice to repay. If the family has already entered into a repayment

agreement, the family must provide written proof of participation in the agreement.

- The family must be in good standing regarding any current payment agreement made with another Housing Authority for a previous debt incurred, before this Housing Authority will allow participation in its Housing Choice Voucher Program.
- The Housing Authority will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and termination's policy (Chapter 15, "Denial or Termination of Assistance" of this Administrative Plan).

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 Housing Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Housing Authority 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.
- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program.
  - If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the Housing Authority may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition (see Chapter 17 "Fraud").
  - The family must pay any outstanding prior debt owed to the Housing Authority or another Housing Authority as a result of prior participation in any federal housing program. If a family is not currently entered into a repayment agreement or is not in good standing with an existing repayment agreement, the family must pay the balance in full within 15 days of the Housing Authority notice to repay.

#### **G. TENANT SCREENING [24 CFR 982.307]**

The Housing Authority will take into consideration any of the criteria for admission described in Chapter 15, "Denial or Termination of Assistance" of this Administrative Plan. The Housing Authority will not screen family behavior or suitability for tenancy. The Housing Authority will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. On or before the Housing Authority's approval of the tenancy, the Housing Authority will inform the

owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families based on their tenancy histories, which may include:

- 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
- Compliance with other essential conditions of tenancy

The Housing Authority must offer the owner other information in the Housing Authority's possession concerning the family, including:

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

The Housing Authority may offer the owner other information in the Housing Authority's possession concerning the family, including:

- Information about the family's tenancy history
- Information about drug-trafficking by family members

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

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

In cases involving a victim of domestic violence, dating violence, sexual assault, or stalking, 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies.

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

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

## **I. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See Chapter 19, "Complaints and Appeals" of this Administrative Plan for

additional information about reviews and hearings.

**J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]**

Admission to the program may not be based on:

- Where the family lives before admission to the program;
- Where the family will live with assistance under the program;
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- Discrimination because a family includes children;
- Whether a family decides to participate in a family self-sufficiency program; or
- Other reasons listed in Chapter 1, Section G (Fair Housing Policy) and Section H (Reasonable Accommodations Policy) of this Administrative Plan.

# Chapter 3

## APPLYING FOR ADMISSION

[24 CFR 982.204]

### INTRODUCTION

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



## **A. OVERVIEW OF THE APPLICATION TAKING PROCESS**

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

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

When the waiting list is open, any family asking to be placed on the waiting list for Housing Choice Voucher rental assistance will be given the opportunity to complete a pre-application.

Pre-applications will be mailed to interested families upon request and is available on our website.

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

The pre-application will be dated, time-stamped, and referred to the Housing Authority' where it will be maintained until such time as it is needed for processing.

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

## **B. OPENING/CLOSING OF THE WAITING LIST [24 CFR 982.206, 982.54(d)(1)]**

### **Opening the Waiting List**

The Housing Authority will utilize the following procedures for opening the waiting list. When the Housing Authority opens the waiting list, the Housing Authority will advertise through public notice in the local newspapers of general circulation, minority publications and media entities, and on the Housing Authority's website.

The notice will contain:

- The dates, times, and the locations where families may apply.
- The programs for which applications will be taken.
- A brief description of the program.
- Limitations, if any, on who may apply.

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

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

If the waiting list is open, the Housing Authority will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in Chapter 15, "Denial or Termination of Assistance" of this Administrative Plan.

### **Limits on Who May Apply**

When the waiting list is open:

- Any family asking to be placed on the waiting list for the Housing Choice Voucher Program will be given the opportunity to complete a pre-application.

When the pre-application is submitted to the Housing Authority, it establishes the family's date and time of application for placement order on the waiting list.

### **Closing the Waiting List**

The Housing Authority may stop applications if there are enough applicants to fill anticipated openings for the next 24 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws. The Housing Authority may announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. The Housing Authority will give at least a ten (10) day notice prior to closing the list. When the period for accepting applications is over, the Housing Authority will add the new applicants to the list by:

- Separating the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

### **Limits on Who May Apply**

When the waiting list is open:

- Any family asking to be placed on the waiting list for the Housing Choice Voucher Program will be given the opportunity to complete a pre-application.

When the pre-application is submitted to the Housing Authority, it establishes the family's date and time of application for placement order on the waiting list.

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

The Housing Authority will utilize a pre-application form. The information is to be filled out by the applicant whenever possible. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the pre-application is to permit the Housing Authority to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application will contain at least the following information:

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

Incomplete or duplicate applications will not be accepted.

Pre-applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified. The head of household will also be required to sign the Supplement to Application for Federally Assisted Housing Form.

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

Applicants are required to inform the Housing Authority in writing of household changes, including address. Applicants are also required to respond to requests from the Housing Authority to update information on their application and to determine their interest in assistance.

If after a review of the pre-application, the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation.

This written notification of preliminary eligibility will be:

- Given to the applicant at the time the pre-application is submitted;
- Mailed to the applicant by first class mail; or
- Distributed to the applicant in the manner requested as a specific accommodation.

If the family is determined to be ineligible based on the information provided in the pre-application, the Housing Authority will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See Chapter 19, “Complaints and Appeals” of this Administrative Plan.

**E. TIME OF SELECTION [24 CFR 982.204]**

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

When there is insufficient funding available for the family selected from the wait list, the Housing Authority will not admit any other applicant until funding is available for the first applicant.

**Split Household**

When a family that is on the waiting list splits into two separate households due to divorce or legal

separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the Housing Authority will make the decision taking into consideration the following factors:

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

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

#### **F. COMPLETION OF A FULL APPLICATION**

All preferences claimed on the pre-application or while the family is on the waiting list will be verified after the family is selected from the waiting list during the full application process. The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preference determines placement on the waiting list.

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

- Complete a Personal Declaration prior to the full application interview.
- Complete a full application packet in their own handwriting, unless assistance is needed. If a request for accommodation is made by a person with a disability, the Housing Authority interviewer will complete the full application form with answers supplied by the applicant. The applicant will then be interviewed by Housing Authority staff to review the information on the full application form.
- Participate in a full application interview with a Housing Authority representative during which the applicant will be required to furnish complete and accurate information as requested by the interviewer. The applicant will sign and certify that all information is complete and accurate.
- The full application packet will be communicated as requested as an accommodation to a person with a disability.

#### **Requirement to Attend Interview**

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

All adult family members are required to attend the interview and sign the housing application packet.

Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship.

If an applicant fails to appear for a pre-scheduled appointment, the Housing Authority will automatically schedule a second appointment. If the applicant misses the second appointment without prior approval, the application is denied and the pre-application may be removed from the wait list.

If the interview appointment letter is returned to the Housing Authority with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address before canceling the application.

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

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review (see Chapter 19 “Complaints and Appeals” of this Administrative Plan).

All adult members must sign the HUD Form 9886, Release of Information, the application, the declarations and consents related to citizenship/immigration status and any other supplemental forms required by the Housing Authority. Applicants will be required to sign specific verification forms for information which is not covered by the HUD Form 9886. Failure to do so will be cause for denial of the application.

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

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

If the letter requesting the additional information is returned to the Housing Authority with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

If the information is not supplied in this time period, the Housing Authority will provide the family a notification of denial for assistance (see Chapter 19 “Complaints and Appeals” of this Administrative Plan).

**G. VERIFICATION [24 CFR 982.201(e)]**

Information provided by the applicant will be verified using the verification procedures in Chapter

7, "Verification Procedures" of this Administrative Plan. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than sixty (60) days old at the time of issuance of the voucher.

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

If the information is not supplied in this time period, the HA will provide the family a notification of denial for assistance (see Chapter 19, "Complaints and Appeals" of this Administrative Plan).

**H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY [24 CFR 982.201]**

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

If the applicant is a victim of domestic violence, dating violence, sexual assault, or stalking, 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies.

# Chapter 4

## ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

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

### INTRODUCTION

**I**t is the Housing Authority's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

This chapter explains the local preferences which the Housing Authority has adopted to meet local housing needs, defines the eligibility criteria for the preferences and explains the Housing Authority's system of applying them.

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

**A. WAITING LIST [24 CFR 982.204]**

The Housing Authority uses a single waiting list for admission to its Housing Choice Voucher tenant-based assistance program. Except for special admissions, applicants will be selected from the Housing Authority waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

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

- Applicant name
- Family unit size (number of bedrooms family qualifies for under Housing Authority subsidy standards)
- Date and time of application
- Qualification for any local preference
- Racial or ethnic designation of the head of household

If the Housing Authority's waiting list for its public housing, project-based voucher, or moderate rehabilitation programs is open when the applicant is placed on the housing choice voucher program waiting list, the Housing Authority must offer to place the applicant on these other waiting lists, as long as the other programs include units suitable for the application.

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

If HUD awards a Housing Authority program funding that is targeted for specifically named families, the Housing Authority will admit these families under a special admission procedure. Special admission families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The Housing Authority maintains separate records of these admissions.

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

- A family displaced because of demolition or disposition of a public or Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project covered by a project-based Housing Choice Voucher HAP contract at or near the end of the HAP contract term;
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project; and



- A family participating in the HUD-Veterans Affairs Supported Housing (VASH) program.

**C. LOCAL PREFERENCES [24 CFR 982.207]**

HUD permits the Housing Authority to establish local preferences and 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 Housing Authority to establish other local preferences, at its discretion. The Housing Authority’s local preferences are based on local housing needs and priorities.

The Housing Authority uses the following local preference system:

**Displaced by Government Action (3 points)**

Families who were receiving Housing Choice Voucher assistance will take precedence over other waiting list place holders. New applicants to the Housing Choice Voucher program must be a family displaced within the last 6 months by a natural disaster, including disasters recognized by a Federal government, which extensively damaged or destroyed their dwelling or is:

- Dilapidated as cited by city/county officials of a local code enforcement office and does not provide safe, adequate shelter; has one or more critical defects or a combination of defects requiring considerable repair or endangers the health, safety, and well-being of family.
- Has been declared unfit for habitation by a government agency.

**Residency Preference (3 points)**

Families who live, work, or have been hired to work within San Joaquin County and/or residents moving to San Joaquin County who currently participate in an education or training program designed to prepare the individual for the job market at the time of selection from the wait list.

Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The Housing Authority may treat graduates of or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

**Veteran Preference (1 points)**

Current members of the military, veterans, or surviving spouses of veterans may qualify for this preference. Applicants must provide proof of honorable discharge. If discharge is less than honorable, applicant must provide proof of eligibility to receive veteran's benefits.

**Disability Preference (1 points)**

This preference is extended to disabled persons or families with a disabled member as defined in this Administrative Plan. Proof of disability will be required at time of selection.

**Set Aside Vouchers for Advancement from Transitional Housing Assistance**

The Housing Authority may at its discretion set-aside up to ninety vouchers annually, when funding permits from its available HCV Tenant-Based Voucher allocation, to be used to assist San Joaquin County individuals or families who are:

- Participating in a Supportive Housing Program, Shelter Plus Care Program, or Emergency Solutions Grants program; and have been referred by that agency.

The referring agency will validate that the families have demonstrated acceptable levels of housing, income, and personal stability; and no longer require affordable housing coupled with the program support services. Where all other considerations are equal, residents of the County of San Joaquin will be selected before non-residents. These transitional housing applications may be accepted even when the waiting list is closed.

The Housing Authority will use the following to select among applicants on the waiting list with the same preference status:

- Date and time of receipt of a completed pre-application.

**Set Aside Vouchers for Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking or other violent crimes**

The Housing Authority may set aside up to 10 vouchers annually, at its discretion, for victims of domestic violence, dating violence, sexual assault and stalking, or other violent crimes, regardless of sex, gender identity, or sexual orientation who reside in San Joaquin County. This preference is defined in accordance with the Violence Against Women Reauthorization Act of 2013 (VAWA) and by local law enforcement agencies. This includes existing tenants of the Housing Authority’s public housing program who request an emergency transfer from the tenant’s current unit and meet the VAWA criteria and/or law enforcement criteria and the Housing Authority’s Emergency Transfer Plan. The Housing Authority will offer a voucher to the existing tenant if the covered housing program does not have another dwelling unit that is available and safe to offer to the tenant. The Housing Authority will require documentation from the victim. Refer to Chapter 15 of this Administration Plan, under “Definitions” for a list of Covered Housing Programs and under “Documentation” for documentation requirements. The Housing Authority will waive the wait list regulatory requirements for families admitted through this preference who are not on any of the Housing Authority’s affordable waiting lists.

The Housing Authority will use the following to select among applicants on the waiting list with the same preference status:

- Date and time of receipt of a completed pre-application.

**D. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION [24 CFR 982.207]**

At the time of application, an applicant's entitlement to a local preference may be made on the following basis. An applicant's certification that they qualify for a preference will be accepted without verification at the initial pre-application. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the local preference and given an opportunity

for an informal review.

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

**E. TARGETED FUNDING [24 CFR 982.203]**

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

Applicants who are admitted under targeted funding which are not identified as a special admission are identified by codes in the automated system. The following types of program funding may be “targeted” programs:

- Family Unification Program
- A family displaced because of demolition or disposition of a public housing project
- A family residing in a multi-family rental housing project when HUD sells, forecloses or demolishes the project
- Housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.) CFR 248.173)
- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173)
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

**F. INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998, each fiscal year the Housing Authority will reserve a minimum of seventy-five percent (75%) of its Housing Choice Voucher new admissions for families whose income does not exceed the higher of Federal poverty level or thirty percent (30%) of the area median income. HUD refers to these families as “extremely low-income families.” The Housing Authority will admit families who qualify under the extremely low-income limit to meet the income-targeting requirement, regardless of preference.

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

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

The Housing Authority shall have the discretion, at least annually, to exercise the “fungibility” provision of the QHWRA. This provision allows the Housing Authority to admit less than the minimum forty percent (40%) of its extremely low-income families in a fiscal year to its public housing program to the extent that the Housing Authority’s admission of extremely low income families in the tenant-based assistance program exceeds seventy-five percent (75%) of all

admissions during the fiscal year. If exercising this option the Housing Authority will follow the fungibility threshold limitations as set forth in QHWRA legislation.

The discretion by the Housing Authority to exercise the fungibility provision is also reflected in the Housing Authority's Public Housing Admissions and Continued Occupancy Policy (ACOP).

## **G. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]**

### **Change in Circumstances**

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

When an applicant claims an additional preference, they will be placed on the waiting list in the appropriate order determined by the newly claimed preference. The exception to this is that if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they are returned to the waiting list with the new preference.

If the family's verified annual income at final eligibility determination does not fall under the extremely low-income limit, and the family was selected for income targeting purposes before families with a higher preference, the family will be returned to the waiting list.

### **Cross-Listing of Different Housing Programs and Housing Choice Voucher [24 CFR 982.205(a)]**

The Housing Authority will not merge its waiting lists. If the waiting list for the Housing Authority's Public Housing program, and/or Project-Based Voucher Program is open at the time an applicant applies for the Housing Choice Voucher Program, the Housing Authority must offer to place the family on its waiting lists for the other programs.

### **Project-Based Voucher Units Designated for Elderly or Disabled Families**

Developments specifically designed for elderly or disabled families may enter into contract under the Project-Based Voucher Program. An elderly family is defined as a family whose head, spouse, co-head, or sole member is a person who is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with a disability [24 CFR 5.403]. Preference will be given in tenant selection for units in the project-based development designated for senior or disabled families. In selecting elderly or disabled families to fill these units, the Housing Authority must also apply any preferences established in this Administrative Plan. The Housing Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

If there are not enough elderly families to occupy the units in a designated senior Project-Based Voucher development, the Housing Authority may allow near-elderly families to occupy the units. A near-elderly family is a family whose head, spouse, or co-head is at least fifty to sixty-one (50-61) years old. When there are insufficient elderly families on the waiting list who wish to reside in a Project-Based Voucher Program development designated as a senior complex, near-elderly families will be selected.

### **Other Housing Assistance [24 CFR 982.205(b)]**

Other housing assistance means a Federal, State or local housing subsidy, as determined by HUD, including Public Housing.

The Housing Authority may not take any of the following actions because an applicant has applied for, received, or refused other housing.

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

### **H. ORDER OF SELECTION [24 CFR 982.207(e)]**

Local preferences, as described in Section C of this chapter, will be used to select families from the waiting list. The established local preferences reflect local housing needs and priorities.

In order to avoid unnecessary delays of admission to the program and to ensure that those who qualify for a particular unit can be placed in that unit, the Housing Authority will utilize a point system to separate the new applicants into groups based on preferences and ranking applicants within each group by date and time of application. The Housing Authority's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this Administrative Plan.

### **I. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]**

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

### **J. PREFERENCE DENIAL [24 CFR 982.207]**

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

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

### **K. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]**

The waiting list will be purged as necessary. The Housing Authority may notify applicants by mail to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of

continued interest.

Any mailings to the applicant which require a response will state that failure to respond within ten (10) days will result in the applicant's name being removed from the waiting list. An extension of thirty (30) days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed from the waiting list without further notice, and the envelope and letter will be maintained in the file. If mail is returned with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the mail to the new forwarding address before removing the applicant from the wait list.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Application's Compliance Supervisor or his or her designee determines there were circumstances beyond the person's control.

Applicants are required to contact the Housing Authority periodically.

The Housing Authority allows a grace period of thirty (30) days after completion of the purge to request a reinstatement. Applicants who respond during this grace period will be reinstated.

# Chapter 5

## SUBSIDY STANDARDS

[24 CFR 982.402]

### INTRODUCTION

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

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

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

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

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

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

The Housing Authority will consider factors such as family characteristics including sex, age, or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

In accordance with PIH Notice 2010-51, the Housing Authority 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 will be verified by the Housing Authority during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the Housing Authority must reduce the voucher size and corresponding payment standard at the family's next annual recertification.

In addition to the verification during the annual inspection of the unit, the Housing Authority may, if applicable, verify the actual equipment in the extra bedroom during the initial inspection.

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

- Foster children will be included in determining unit size only if they will be in the unit for more than twelve (12) months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.

A single pregnant woman with no other family members must be treated as a two-person family. Single person families shall be allocated a zero or a one bedroom voucher depending on funding availability. Space may 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.



## GUIDELINES FOR DETERMINING VOUCHER SIZE

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

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

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

Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

- Verified medical or health reason; or
- Elderly persons or persons with disabilities who may require a live-in attendant.

### **Request for Exceptions to Subsidy Standards**

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

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

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

The Housing Authority may approve an additional bedroom for medical equipment if the need is documented by a health care provider in accordance with PIH Notice 2010-51. The actual equipment in the extra bedroom will be verified by the Housing Authority during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the Housing Authority must reduce the voucher size and corresponding payment standard at the family's next annual recertification.

### **Housing Authority Error**

If the Housing Authority errs in the bedroom size designation, the family will be issued a voucher of the appropriate size so that the family is not penalized.

### **Changes for Applicants**

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

### **Changes for Participants**

The members of the family residing in the unit must be approved by the Housing Authority. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the Housing Authority within thirty (30) days. The above referenced guidelines will apply.

The Housing Authority may approve additional family members in the following cases:

- The spouse or partner of the head of household. (For a spouse, a Marriage License must be provided at the time of request.)
- The minor children of the approved spouse or approved domestic partner of the head of Household.
- The disabled elderly parent(s) or grandparent(s) of the Head of Household approved spouse or approved domestic partner.

### **Under housed Families**

If a unit does not meet the HQS space standards because of an increase in family size (unit too small), the Housing Authority must issue the family a new voucher of the appropriate size and the family and Housing Authority must try to find an acceptable unit as soon as possible.

If an acceptable unit is available for rent by the family, the Housing Authority must terminate the Housing Assistance Payment (HAP) Contract in accordance with its terms.

### **Over housed Families**

If a participant has a decrease in the family size, the family has the option to be issued a new voucher or remain in the unit they are currently renting. If the family chooses to remain in the unit, the subsidy standard will be lowered at the next annual reexamination. If the family chooses to move, the voucher issued will be for the correct subsidy standard. The amount the family pays for rent should be affordable and the tenant portion of rent and the current utility allowance cannot exceed 40% of their adjusted income at the time of lease-up. The Housing Authority rent will be based on the payment standard for the number of bedrooms the family is eligible for or the actual number of bedrooms in the unit, whichever is less. In cases where the gross rent is less than the payment standard, it will be used as the payment standard.

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

- If a family with a disability is under-housed in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by the Housing Authority.

The Housing Authority and family have been unable to locate a unit within thirty (30) days.

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

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

**Subsidy Limitation**

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

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

**Utility Allowance**

The utility allowance used to calculate the gross rent is the lesser of the size of the dwelling unit actually leased by the family or the voucher size issued

However upon the request of a family that includes a person with disabilities, the Housing Authority must approve a utility allowance higher than the applicable amount of such a higher utility allowance is needed as a reasonable accommodation in accordance with HUD regulations in 24 CFR Part 8 to make the program accessible to and usable by the family member with a disability.

**Housing Quality Standards**

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

**HQS GUIDELINES FOR UNIT SIZE SELECTED**

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

# Chapter 6

## FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

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

### INTRODUCTION

The Housing Authority will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of annual income and adjusted income will ensure that families are not paying more or less money for rent than their obligation under the regulations.

This chapter defines the allowable expenses and deductions to be subtracted from annual income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD notices and memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The Housing Authority's policies in this chapter address those areas which allow the Housing Authority discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of the TTP.

**A. INCOME AND ALLOWANCES [24 CFR 5.609]**

**Income**

Income includes all monetary amounts which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

**Annual Income**

Annual income is defined as the gross amount of income anticipated to be received by the family during the twelve (12) months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

**Adjusted Income**

Adjusted income is defined as the annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from annual income:

1. Dependent Allowance: \$480 for each family member (other than the head or spouse) who are minors or who are 18 and older and are full-time students or who are disabled.
2. Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled.
3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
4. Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

**B. EARNED INCOME DISALLOWANCE (EID) FROM RENT DETERMINATIONS [24 CFR 5.616; 982.201(b)(3)]**

The EID is designed to promote self-sufficiency for families with disabilities in the HCV program who meet the definition of a “qualified family” as described in 24 CFR 5.617 and 24 CFR 960.255. The EID benefit is limited to a lifetime 24-month period for the qualifying family member. Once a family member is determined eligible for the EID, the 24-calendar month period starts. If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues.

During the first 12–calendar month period, the Housing Authority must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the Housing Authority must exclude from annual income of the family at least 50 percent of the increase in earned income of such family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income). At the end of the 24 months, the EID ends regardless of how many months were “used.”

A disabled family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program and must meet one or more of the following conditions:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member during or within six (6) months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of “previously unemployed” includes a person with disabilities who has earned in the previous twelve (12) months no more than the equivalent earnings for working ten (10) hours per week for fifty (50) weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of an economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may 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 substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation in such programs. The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member’s income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

### **Applicability to Child Care Expense Deductions**

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

### **Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason for the increase in earned income (refer to Section B above)
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative twelve (12) month period of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the initial exclusion
- Date the twelve (12) month phase-in period began
- Date(s) earned income ended and resumed during the second twelve (12) month period (phase-in) of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the phase-in exclusion
- Ending date of the maximum twenty-four (24) months, disallowance period.

The Housing Authority will maintain a tracking system to ensure correct application of the earned income disallowance (refer to Chapter 12, Section B, "Reporting Interim Changes" for increases in income that must be reported).

### **Inapplicability to Admission**

The earned income disallowance is only applied to determine the annual income of families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

**Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]**

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 Housing Authority 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 Housing Authority’s governing board. No resident may receive more than one such stipend during the same period of time.

**C. MINIMUM RENT [24 CFR 5.630]**

**Minimum Rent**

Minimum rent is \$50. Minimum rent refers to the Total Tenant Payment (TTP) and includes the combined amount a family pays towards rent and/or utilities when it is applied.

**Hardship Requests for an Exception to Minimum Rent**

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

**Criteria for Hardship Exception**

In order for a family to qualify for a hardship exception, the family’s circumstances must fall under one of the following HUD hardship criteria:

- The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance, including a family with a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
  
- The family would be evicted as a result of the imposition of the minimum rent requirement.
  
- The income of the family has decreased because of changed circumstances, including:
  - Loss of employment
  
  - Death in the family
  
  - Other circumstances as determined by the Housing Authority or HUD

**Housing Authority Notification to Families of Right to Hardship Exception**

The Housing Authority will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. “Subject to minimum rent” means the minimum rent was the greatest figure in the calculation of the greatest of thirty percent (30%) of monthly adjusted income, ten percent (10%) of monthly income, minimum rent or welfare rent.



If the minimum rent is the greatest figure in the calculation of TTP, Housing Authority staff will include a copy of the notice regarding hardship request provided to the family in the family's file.

The Housing Authority notification will advise families that hardship exception determinations are subject to Housing Authority review and hearing procedures.

The Housing Authority will review all family requests for exception from the minimum rent due to financial hardships. All requests for minimum rent hardship exceptions are required to be in writing.

The Housing Authority will request documentation as proof of financial hardship. The Housing Authority will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

Requests for minimum rent exception must include a statement of the family hardship that qualify the family for an exception.

### **Suspension of Minimum Rent**

The Housing Authority will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the Housing Authority determines whether the hardship is:

- Covered by statute;
- Temporary or long term.

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

### **Temporary Hardship**

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

The Housing Authority will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period (see Chapter 18, “Owner or Family Debts to the Housing Authority” in this Administration Plan for the payment agreement policy).

### **Long-Term Duration Hardships**

If the Housing Authority determines that there is a qualifying long-term financial hardship, the Housing Authority must exempt the family from the minimum rent requirements for as long as the

hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

### **Retroactive Determination**

The Housing Authority will reimburse the family for any minimum rent charges which took effect after October 21, 1998, that qualified for one of the mandatory exceptions. If the family is owed a retroactive payment, the Housing Authority will offset the family's future rent contribution payments by the amount in which the Housing Authority owes the family.

## **D. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT [24 CFR 982.54(d)(10), 982.551]**

The Housing Authority must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the Housing Authority must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

“Temporarily absent” is defined as away from the unit for more than thirty (30) days. The income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

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

### **Absence of Any Member**

Any member of the household will be considered permanently absent if they are away from the unit for more than ninety (90) consecutive days except as otherwise provided in this chapter. If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the Housing Authority's “Absence of Entire Family” policy later in this chapter.

### **Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the Housing Authority will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the Housing Authority's “Absence of Entire Family” policy later in this chapter.

### **Absence due to Full-time Student Status**

Full time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent.

If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of voucher size.

### **Absence due to Incarceration**

If the sole member is incarcerated for more than sixty (60) consecutive days, they will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if they are incarcerated for sixty (60) consecutive days, or one hundred and eighty (180) days, in a twelve month period.

The Housing Authority will determine if the reason for incarceration is for drug-related or violent criminal activity.

### **Absence of Children due to Placement in Foster Care**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the Housing Authority will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than twelve (12) months or recertification date, whichever is first, from the date of removal of the children, the voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the Housing Authority's subsidy standards.

### **Absence of Entire Family**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the Housing Authority will terminate assistance in accordance with appropriate termination procedures contained in this Administrative Plan.

Families are required to notify the Housing Authority and the owner before they move out of a unit and to give the Housing Authority information about any family absence from the unit.

Families must notify the Housing Authority at least thirty (30) days before leaving the unit or no less than fourteen (14) days after leaving the unit if they are going to be absent from the unit for more than thirty (30) consecutive days.

If the entire family is absent from the assisted unit for more than ninety (90) consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the Housing Authority will not continue assistance payments.

“Absence” means that no family member is residing in the unit. In order to determine if the family is absent from the unit, the Housing Authority may:

- Write letters to the family at the unit;
- Telephone the family at the unit;
- Interview neighbors;
- Verify if utilities are in service; and/or
- Check with the Post Office.

A person with a disability may request an extension of time as a reasonable accommodation, provided that the extension does not go beyond the HUD allowed one hundred eighty (180) consecutive days limit.

If the absence which resulted in termination of assistance was due to a person's disability, and the Housing Authority can verify that the person was unable to notify the Housing Authority in accordance with the family's responsibilities, and if funding is available, the Housing Authority may reinstate the family as an accommodation if requested by the family, as long as the period was within one hundred eighty (180) days.

### **Caretaker for Children**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the Housing Authority will treat that adult as a visitor for the first ninety (90) days. If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the Housing Authority will review the status at ninety (90) day intervals. If custody or legal guardianship has not been awarded by the court, but the action is in process, the Housing Authority will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the Housing Authority will state in writing that the transfer of the voucher is for that limited time or as long as they have custody of the children. The Housing Authority will use discretion as deemed appropriate in determining any further assignation of the voucher on behalf of the children.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made. The Housing Authority will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than six (6) months and it is reasonable to expect that custody will be granted.

When the Housing Authority approves a person to reside in the unit as caretaker for the children, the income should be counted pending a final disposition. The Housing Authority will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts them from the home for more than ninety (90) consecutive days, the person will be considered permanently absent.

## **Visitors**

Any adult not included on the HUD 50058 form who has been in the unit more than fourteen (14) consecutive days without Housing Authority approval, or a total of thirty (30) days in a twelve (12) month period, will be considered to be living in the unit as an unauthorized household member.

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

Statements from neighbors and/or the landlord will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

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

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to ninety (90) days per year without being considered a member of the household. In a joint custody arrangement, if the minor is in the household less than 182 days per year, the minor will be considered to be an eligible visitor and not a family member.

## **Reporting Additions to Owner and Housing Authority**

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

The family obligations require the family to request Housing Authority approval to add any other family member as an occupant of the unit and to inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

The Housing Authority will check criminal history for all adults requested to be added into a household to determine whether that person has violated any of the prohibited behaviors as referenced in the section on screening and termination's policy (Chapter 15, "Denial or Termination of Assistance") of this Administrative Plan.

The Housing Authority will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement, to include but not limited to the use of the Dru Sjodin National Sex Offender database located at [www.nsopw.gov](http://www.nsopw.gov).

If the family does not obtain prior written approval from the Housing Authority, any person the family has permitted to move in will be considered an unauthorized household member. In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the Housing Authority in writing within thirty (30) days of the maximum allowable time.

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

In addition, the Housing Authority will require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

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

### **Reporting Absences to the Housing Authority**

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

If a family member leaves the household, the family must report this change to the Housing Authority, in writing, within thirty (30) days of the change and certify as to whether the member is temporarily absent or permanently absent.

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

### **E. AVERAGING INCOME**

When annual income cannot be anticipated for a full twelve (12) months, the Housing Authority may average known sources of income that vary to compute an annual income, or annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve (12) months, bonuses and overtime received the previous year will be used.

If, by averaging an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments. The method used depends on the regularity, source and type of income.

### **F. MINIMUM INCOME**

There is no minimum income requirement. Families who report zero income are required to undergo an interim recertification every ninety (90) days.

Families that report zero (\$0) income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc., by completing a Monthly Expenditure Form.

The Housing Authority may request credit checks for all adult members of families who report zero income. Where credit reports show credit accounts open and payments current, the Housing Authority will take action to investigate the possibility of fraud or program abuse (see Chapter 17, "Program Integrity Addendum" of this Administrative Plan).

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

**G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME [24 CFR 982.54(D) (10)]**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the Housing Authority will calculate the income by using the following methodology and use the income figure which would result in a lower payment by the family:

- Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member; or
- Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

**H. REGULAR CONTRIBUTIONS AND GIFTS**

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

Any contribution or gift received every six (6) months or more frequently will be considered a “regular” contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts (see Chapter 7, “Verification Procedures” of this Administration Plan for additional information).

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

**I. ALIMONY AND CHILD SUPPORT**

Regular alimony and child support payments are counted as income for calculation of TTP. If the amount of child support or alimony received is less than the amount awarded by the court, the Housing Authority will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

The Housing Authority will accept verification that the family is receiving an amount less than the award if:

- The Housing Authority receives verification from the agency responsible for enforcement or collection.
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.
- It is the family's responsibility to supply a certified copy of the divorce decree.

**J. LUMP-SUM PAYMENTS [24 CFR 5.609]**

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and

settlement for personal or property losses, are not included in income but may be included in assets.

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

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

- The Housing Authority uses a calculation method which calculates retroactively or prospectively depending on the circumstances.
- The Housing Authority will calculate prospectively if the family reported the payment within thirty (30) days and retroactively to date of receipt if the receipt was not reported within that time frame.

### **Retroactive Calculation Methodology**

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

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

The family has the choice of paying this “retroactive” amount to the Housing Authority in a lump sum. At the Housing Authority's option, the Housing Authority may enter into a payment agreement with the family. The amount owed by the family is a collectible debt even if the family becomes unassisted.

### **Attorney Fees**

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

## **K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS**

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

- While an individual is employed, count as assets only the amounts the family can withdraw without retiring or terminating employment.
- After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.



**L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.609(b)(3)]**

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

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

The Housing Authority's minimum threshold for counting assets disposed of for less than fair market value is \$1,000. If the total value of assets disposed of within a one-year period is less than \$1,000, they will not be considered an asset.

**M. CHILD CARE EXPENSES [24 CFR 5.603]**

Child care expenses for children under the age of thirteen (13) years old may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment. In the case of a child attending private school, only after-hours care can be counted as child care expenses.

In cases where an adult family member is available to provide child care, child care expenses will not be allowed as a deduction unless there is a documented reason that the family member is unable to care for the child. Examples of those adult members who would be considered unable to care for the child include:

- The abuser in a documented child abuse situation; or
- A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

Allowable deductions for child care expenses are based on the following guidelines:

Child Care to Work

The maximum child care expense allowed cannot exceed the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

Child Care for School

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

**Amount of Expense**

The Housing Authority will survey the local care providers in the community and collect data as a guideline. If the hourly rate materially exceeds the guideline, the Housing Authority may calculate the allowance using the guideline.

**N. MEDICAL EXPENSES [24 CFR 5.603]**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, the

Internal Revenue Service (IRS) Publication 502 will be used as a guide.

Non-prescription medicines and chiropractic care must be doctor recommended in order to be considered a medical expense. Non-prescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

**O. MEDICARE DRUG PRESCRIPTION PROGRAM (Part D)**

Medicare prescription drug coverage is insurance that covers both brand-name and generic prescription drugs at participating pharmacies. Medicare prescription drug coverage provides protection for people who have very high drug costs. Everyone with Medicare, regardless of income, health status, or prescription drug usage, will have access to prescription drug coverage beginning on January 1, 2006, as follows:

- Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs.
- Persons receiving Supplemental Security Income (SSI) will automatically qualify.
- A one-time \$600 subsidy (transitional assistance) will be provided to eligible Medicare beneficiaries. This subsidy must be excluded as income. The family may provide this verification (if not, the Housing Authority will need to do a third-party verification).
- Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction.
- Some persons may be required to pay a monthly premium up to \$37 which will be counted as a medical deduction. The family may pay the premium directly or it may be deducted directly from their SSI check.

Families are not required to report they have enrolled until their next recertification (through February, 2007).

**P. PRO-RATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]**

**Applicability**

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

**Pro-rated Assistance Calculation**

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

**Q. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The Housing Authority will not reduce the rental contribution for families whose welfare assistance is reduced specifically because of:

- Fraud by a family member in connection with the welfare program;
- Failure to participate in an economic self-sufficiency program; and/or
- Noncompliance with a work activities requirement.

However, the Housing Authority will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits;
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as:
- The family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution. Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

### **Verification before Denying a Request to Reduce Rent**

The Housing Authority will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The welfare agency, at the request of the Housing Authority, will inform the Housing Authority of:

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and
- Subsequent changes in term or amount of reduction.

### **R. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.517]**

When funding is available, the Housing Authority will provide families an allowance for tenant paid utilities. The same utility allowance schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The Housing Authority's utility allowance schedule and the utility allowance for an individual family must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

The Housing Authority may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The Housing Authority must classify utilities in the utility allowance schedule according to the following general categories: space heating, air conditioning, cooking, water heating, water, sewer, trash collection, other electric, refrigerator (for tenant-supplied refrigerator), range (for tenant-supplied range); and other services as specified by HUD.

A tenant-paid air conditioning allowance will be provided throughout our jurisdiction. The air conditioning allowance will only be granted to families in the area when the Housing Authority has confirmed that the unit actually has an air conditioner in the unit.

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

The approved utility allowance schedule is given to families along with their voucher. The utility allowance is based on the actual voucher size issued to the family.

When the calculation on the HUD 50058 form results in a utility reimbursement payment due to the family, the Housing Authority will make a utility reimbursement payment directly to the gas and electric company that provides services to the family's assisted unit. The check will be made out directly to the gas and electric company.

# Chapter 7

## VERIFICATION PROCEDURES

[24 CFR Part 5, 24 CFR 982.516]

### INTRODUCTION

**H**UD regulations require that the factors of eligibility and Total Tenant Payment be verified by the Housing Authority. Housing Authority staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

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

## **A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]**

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

**Enterprise Income Verification (EIV):** The Housing Authority utilizes HUD's Enterprise Income Verification (EIV) system as an on-line source for income verification before or during a reexamination, through an independent source that systematically and uniformly maintains income information in a computerized format for a large number of individuals. This system enables the Housing Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Housing Authority staff may not disclose EIV data to any third parties (EIV data is property of HUD and protected by the Federal Privacy Act). Staff may only provide EIV data to the individual to whom the record pertains and to the receiving Housing Authority during a portability transfer (refer to Chapter 13, "Moves with Continued Assistance/Portability"). EIV data of minors may be provided to the minor's parent or guardian.

**Upfront Income Verification (UIV):** The verification of income before or during a family reexamination through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. The EIV system is available to all Housing Authority's as a UIV technique. Housing Authorities are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

**Written Third Party Verification:** An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or the Housing Authority request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to:

- a. Paystubs or payroll summary report
- b. Employer notice/letter of hire/termination
- c. SSA benefit verification letter
- d. Bank statements
- e. Child support payment stubs
- f. Welfare benefit letters and/or printouts
- g. Unemployment monetary benefit notices
- h. Pharmacy printouts

The Housing Authority is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. The Housing Authority may request six current and consecutive paycheck stubs. For new income sources or when two pay stubs are not available, the Housing Authority should project income based on the information from a traditional written third party verification form or the best available information.

**Note:** Documents older than sixty (60) days (from the Housing Authority interview/determination or request date) are acceptable for confirming dates of income.

The Housing Authority may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

If SSA/SSI benefit information cannot be obtained through EIV and the participant and/or household member is unable to provide the requested document(s), ask the participant/household member to utilize one of the following option:

- Ask the participant to request a *Proof of Income Letter* from SSA's toll-free number at 1-800-772-1213; **or**
- While meeting with the applicant, help the applicant request a benefit verification letter from SSA's website at [www.socialsecurity.gov](http://www.socialsecurity.gov). This service is free and SSA will send the letter to the applicant within 10 days. To access the site for requesting benefit verification letters, go to the *Social Security Online* front page and select *What You Can do Online* and follow the instructions for requesting a *Proof of Income Letter*. Assist the applicant in answering questions and explain how the applicant should provide the letter once they receive it. Upon receipt, the applicant/household member should provide the Housing Authority with the original SSA benefit letter. The Housing Authority should make a photocopy of the document for the Housing Authority file and return the original document to the individual. The Housing Authority should use the listed gross benefit amount to calculate annual income from social security benefits. SSA encourages recipients to use the SSA's website to request *Proof of Income Letters*.

The SSA will charge the Housing Authority a fee for third party verifications of social security benefits. Therefore, to avoid incurring third party verification costs, the Housing Authority will use the methods noted above to obtain verification for each household member that receives social security benefits.

**Traditional Written Third Party Verification:** Traditional third party written verification is used to verify information directly from the source. Third party written verification forms will be sent directly to the third party source by mail, electronic mail or fax. The family will be required to sign an authorization for the information source to release the specified information.

**Oral Third Party Verification:** Oral third party verification will be used when written third party verification is delayed or not possible. When this method is used, staff will be required to document in the file, the name of the person contacted and telephone number, the date and time of the conversation, and the facts provided.

- If oral third party is not available, the Housing Authority will document the attempts and move on to the next method of verification, "non-third party verification". The Housing Authority will accept faxed documents and will accept photo copies provided the information is confirmed over the phone.

**Non-Third Party Verification Tenant Declaration:** The tenant submits an affidavit or notarized statement of reported income and/or expenses to the Housing Authority. This verification method should be used as a last resort when the Housing Authority has not been successful in obtaining information via all other verification techniques. When the Housing Authority relies on the tenant declaration, the Housing Authority must document on the Method of Verification (MOV) Form the reason(s) why third party verification was not available.

**Exceptions to Third Party Verification Requirements:** HUD is aware that in some situations, third party verification is not available for a variety of reasons. In these cases, the Housing Authority is required to document on the MOV Form the reason(s) why third party verification was not available.

The Housing Authority **must** request written third party verification under the following circumstances:

- a. When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR 5.236(b));
- b. When the Housing Authority requires additional information that is not available in EIV and/or the tenant is unable to provide the Housing Authority with current acceptable tenant-provided documentation. Examples of additional information, includes but is not limited to:
  1. Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
  2. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
  3. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.).

**B. RELEASE OF INFORMATION [24 CFR 5.230]**

Each family member age 18 years and older and each family head and spouse, regardless of age will be required to sign the HUD 9886 Release of Information/Privacy Act Form. In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD 9886, Release of Information/Privacy Act Notice.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

The head of household is also required to sign the Supplement to Application for Federally Assisted Housing Form.

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

**C. COMPUTER MATCHING 24 CFR 5.234**

Where allowed by HUD and/or other State or local agencies, computer matching will be done.

The Housing Authority will utilize the HUD established computer-based Enterprise Income Verification (EIV) System for obtaining Social Security Benefits, Supplemental Security Income, benefit history and tenant income discrepancy reports.

When computer matching results in a discrepancy with information in the Housing Authority records, the Housing Authority will follow up with the family and other verification sources to resolve this discrepancy. If the family has unreported or underreported income, the Housing Authority will follow the procedures in Chapter 17 (“Program Integrity Addendum”) of this Administrative Plan.



**D. ITEMS TO BE VERIFIED [24 CFR 982.516]**

The following items will be verified:

- All income.
- Zero income status of household. Zero income applicants and residents may be required to complete a Monthly Expenditure form at each certification or recertification.
- Full-time student status including high school students who are 18 or over.
- Current assets including assets disposed of for less than fair market value in the preceding two years.
- Child care expense where it allows an adult family member to be employed, is actively seeking employment or to further their education.
- Total medical expenses of all family members in household whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allows an adult family member to be employed.
- Disability for determination of preferences, allowances or deductions.
- U.S. citizenship/eligible immigrant status.
- Social Security numbers for all family members over 6 years of age or older who have been issued a social security number.
- “Preference” status based upon Housing Authority preferences.
- Familial or marital status when needed for head or spouse definition.
- Verification of Reduction in Benefits for Noncompliance. The Housing Authority will obtain written verification from the welfare agency stating that the family’s benefits have been reduced for fraud or noncompliance before denying the family’s request for rent reduction.
- Legal Identity.
- Family Composition.

**E. VERIFICATION OF INCOME [24 CFR 982.516]**

This section defines the methods the Housing Authority will use to verify various types of income. Acceptable methods of verification include, in this order:

## **Enterprise Income Verification (EIV) system printout**

### **Employment income**

Employment verification forms request the employer to specify the following:

- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- Year-to-date earnings
- Estimated income from overtime, tips, bonus pay expected during next 12 months

**Check stubs or earning statements** which indicate the employee's gross pay, frequency of pay and year-to-date earnings

**W-2 forms** and/or income tax return forms.

**Self-certifications** or income tax returns signed by the family may be used for verifying self-employment income or income from tips and other gratuities. (For some self-employment types, where there is the potential for substantial income, self-certification should be unacceptable.)

Applicants and program participants may be required to sign an authorization for the release of information from the Internal Revenue Service (IRS) for further verification of income.

In cases where there are questions about the validity of information provided by the family, the Housing Authority may require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

### **Social Security, Pensions, Supplemental Security Income (SSI), Disability Income**

Acceptable methods of verification include, in this order:

- Enterprise Income Verification (EIV) System printout
- Benefit verification form completed by agency providing the benefits
- Award or benefit notification letters prepared and signed by the providing agency
- Computer report electronically obtained or in hard copy

- Bank statement for direct deposit

Social Security Benefit verification letters must be current and dated within 60 days of working up the file. Applicants/household members can obtain current benefit verification letters by:

- Calling the SSA at 1-800-772-1213
- Accessing the SSA website at [www.socialsecurity.gov](http://www.socialsecurity.gov)

### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

- Enterprise Income Verification (EIV) System printout
- Verification form completed by the Employment Development Department (EDD)
- Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amount.
- Payment stubs

### **Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

- Housing Authority verification form completed by payment provider
- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
- Computer-generated Passport to Services printout and/or Notice of Action.

### **Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

1. Housing Authority verification form completed by payment provider.
2. Copy of latest check and/or payment stubs from the issuing agency.
3. Oral verification from the District Attorney's Child Support Division.
4. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
5. Family's self-certification of amount received and the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide:

1. Housing Authority verification form completed by parent provider or person paying the support.
2. A welfare notice of action showing amounts received by the welfare agency for child support.
3. A written statement from an attorney certifying that a collection or enforcement action has been filed.
4. An affidavit from the family indicating the amount(s) received.
5. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

### **Net Income from a Business**

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

Acceptable methods of verification include:

- IRS Form 1040
- Schedule C (Small Business)
- Schedule E (Rental Property Income)
- Schedule F (Farm Income)
- Audited or un-audited financial statement(s) of the business
- Credit report or loan application
- Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next twelve (12) months. The family will be advised to maintain these documents in the future if they are not available.
- Family's self-certification as to net income realized from the business during previous years.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expenses will be computed using straight-line depreciation rules.

### **Child Care Business**

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

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

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

The Housing Authority may conduct interim reevaluations every ninety (90) days and require the participant to provide a log with the information about customers and income.

If child care services were terminated, a third-party verification form may be sent to the parent whose child was cared for.

### **Recurring Gifts**

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

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

The Housing Authority will follow the third-party verification procedures as outlined in Section A of this chapter.

### **Zero Income Status**

Families claiming to have no income will be required to sign verification forms to determine that forms of income such as unemployment benefits, Temporary Assistance for Needy Families (TANF), SSI, etc. are not being received by the household. The family may be required to complete a Monthly Expenditure Form. The Housing Authority may request information from the State Employment Development Department and the IRS.

The Housing Authority may run a credit report if information is received that indicates the family has an unreported income source.

### **Minimum Income**

There is no minimum income requirement. Families who report zero (\$0) income are required to undergo an interim recertification every ninety (90) days. Families that report zero (\$0) income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc., by completing a Monthly Expenditure Form.

The Housing Authority may request credit checks for all adult members of families who report zero (\$0) income. Where credit reports show credit accounts open and payments current, the Housing Authority will take action to investigate the possibility of fraud or program abuse (see Chapter 17, “Program Integrity Addendum” of this Administrative Plan).

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

### **Full-time Student Status**

Only the first \$480 of the annual earned income of full-time students, other than head, co-head, or spouse, will be counted towards family income. Unemployment income is not considered as earned income and the full amount will be counted.

For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children

. Housing Authorities must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9). Verification of full-time student status includes:

- Written verification from the registrar's office or other school official.
- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

### **F. INCOME FROM ASSETS [24 CFR 982.516]**

#### **Checking/Savings Account Interest Income and Dividends**

Acceptable methods of verification include, in this order:

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

#### **Interest Income from Mortgages or Similar Arrangements**

Acceptable methods of verification include, in this order:

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

#### **Net Rental Income from Property Owned by Family**

Acceptable methods of verification include, in this order:

- IRS Form 1040 with Schedule E (Rental Income).

- Copies of latest rent receipts, leases, or other documentation of rent amounts.
- Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

## **G. VERIFICATION OF ASSETS**

### **Family Assets**

The Housing Authority will require the information necessary to determine the current cash value of the family's assets (the net amount the family would receive if the asset were converted to cash). Acceptable verifications may include any of the following:

- Housing Authority verification forms, letters, or documents completed by a financial institution or broker.
- Passbooks, checking/savings account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deducted from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.
- Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

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

For all certifications and recertifications, the Housing Authority will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification is required that shows:

- (a) All assets disposed of for less than FMV;
- (b) The date they were disposed of;

- (c) The amount the family received; and
- (d) The market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

## **H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR 982.516]**

### **Child Care Expenses**

Written verification from the person who receives the payments is required. If the child care provider is an individual, they must provide a statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number, Social Security number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods. The family must provide certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

### **Medical Expenses and Disability Assistance Expenses**

In order for a family to qualify for medical expenses, the head or spouse must be disabled. If the head or spouse is disabled, all medical expenses for all family members in the household will be counted. Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
- Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
- Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next twelve (12) months. A computer printout will be accepted.

### **Medicare Drug Prescription Program (Part D)**

Medicare prescription drug coverage is insurance that covers both brand-name and generic prescription drugs at participating pharmacies. Medicare prescription drug coverage provides protection for people who have very high drug costs. Everyone with Medicare, regardless of income, health status, or prescription drug usage, will have access to prescription drug coverage beginning on January 1, 2006, as follows:

- Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs.
- Persons receiving SSI will automatically qualify.
- A one-time \$600 subsidy (transitional assistance) will be provided to eligible Medicare beneficiaries. This subsidy must be excluded as income. The family may provide this



verification (if not, the Housing Authority will need to do a third-party verification).

- Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction.
- Some persons may be required to pay a monthly premium up to \$37 which will be counted as a medical deduction. The family may pay the premium directly or it may be deducted directly from their SSI check.
- Families are not required to report they have enrolled until their next recertification (through February, 2007).

### **Attendant Care Expenses**

A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes. The following items will be accepted:

- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next twelve (12) months.
- Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next twelve (12) months.
- Receipts or other records of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. The Housing Authority may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for a one time nonrecurring expense.

The Housing Authority will use the standard mileage rate as published by the IRS, or cab fare, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

## **I. ASSISTANCE TO PERSONS WITH DISABILITIES [24 CFR 5.611]**

In all cases, written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit them to be employed or to function sufficiently and independently or to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

### **Attendant Care**

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

**Auxiliary Apparatus**

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

**J. VERIFYING NON-FINANCIAL FACTORS**

**Verification of Legal Identity**

In order to prevent program abuse, the Housing Authority will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered as acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required:

- Certificate of birth, naturalization papers
- Church issued baptismal certificate
- Current valid driver's license
- U.S. military discharge (DD 214)
- U.S. Passport
- Voter's registration
- Company/agency identification card
- Department of Motor Vehicles (DMV) identification card
- Hospital records

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

- Certificate of birth
- Adoption papers
- Custody agreement
- Health and Human Services identification card
- School records

**Verification of Lifetime Sex Offender Registration**

For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and other Criminal Activity final rule), if the recertification/reexamination screening reveals that the tenant or a member of the tenant's household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification/reexamination forms, the Housing Authority will propose termination of tenancy. The Housing Authority will use the following process at initial eligibility and at each recertification determination:

1. Ask households whether any member is subject to a lifetime registration requirement under a state sex offender registration program.

2. Use the Dru Sjodin National Sex Offender website at [www.nsopw.gov](http://www.nsopw.gov) to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.
3. Aggressively pursue termination of tenancy or assistance, as appropriate, for tenants subject to a state lifetime sex offender registration requirement to the extent currently allowed by law.

### **Verification of Marital Status**

Verification of marriage status is a marriage certificate. Verification of a separation may be a copy of court-ordered documentation or other records. Verification of divorce status will be a certified copy of the divorce decree, signed by a court officer.

### **Familial Relationships**

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification. The following verifications will always be required if applicable:

#### ***Verification of relationship***

- Official identification showing names
- Birth certificates
- Baptismal certificates

#### ***Verification of guardianship***

- Court-ordered assignment
- Affidavit of parent

#### ***Evidence of an established family relationship***

- Joint bank accounts or other shared financial transactions
- Leases or other evidence of prior cohabitation
- Credit reports showing relationship

#### ***Verification from social services agency and/or school records***

### **Verification of Permanent Absence of Family Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, the Housing Authority will consider any of the following as verification:

- Husband or wife institutes divorce action. Appropriate documentation from the court is required.
- Husband or wife institutes legal separation. Appropriate documentation from the court is required.

- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease/rental agreement, if available.
- Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.

If the adult family member is incarcerated, a document from the court or the correctional facility may be obtained stating how long they will be incarcerated. The Housing Authority may contact the correctional facility directly.

If no other proof can be provided, the Housing Authority will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

### **Verification of Change in Family Composition**

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

### **Verification of Disability**

Verification of disability must be receipt of Supplemental Security Income (SSI) or Social Security Administration (SSA) disability payments under Section 221 of the Social Security Act or 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

### **Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by the United States Citizenship and Immigration Services (USCIS). Each family member must declare their status once.

Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the Housing Authority hearing is pending.

Citizens or nationals of the United States are required to sign a declaration under penalty of perjury. The Housing Authority will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

- United States birth certificate
- United States Passport
- Resident alien/registration card
- Social Security card
- Other appropriate documentation as determined by the Housing Authority

Eligible immigrants, who are 62 years of age or over, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The Housing Authority verifies the status through the USCIS. If this primary verification fails to verify status, the Housing Authority must request within ten (10) days that the USCIS conduct a manual search.

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

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

### **Failure to Provide**

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

### **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

The Housing Authority will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

For family members added after other members have been verified, the verification occurs at the same time the member is added to the household or at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial Housing Authority does not supply the documents, the Housing Authority must conduct the determination.

### **Extensions of Time to Provide Documents**

The Housing Authority will grant an extension of thirty (30) days for families to submit evidence of eligible immigrant status.

### **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register:

- Alien Registration Receipt Card (I-551)
- Arrival-Departure Record (I-94)

- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688 A or B)
- Receipt issued by the USCIS for issuance of replacement of any of the above documents that show the individual's entitlement has been verified.

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five (5) years.

If the Housing Authority determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for twenty-four (24) months, unless the ineligible individual has already been considered in pro-rating the family's assistance.

### **Verification of Social Security Numbers [24 CFR 5.216]** Disclosure Requirements

Disclosure of Social Security Numbers (SSN) is required. The requirements of this section apply to applicants and participants. Each applicant and participant must submit a complete and accurate SSN assigned to the applicant and to each member of the applicant's household.

Each person, except those 62 years of age or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must submit a valid SSN if the participant has:

- Not previously disclosed a Social Security number;
- Previously disclosed a Social Security number that HUD or the Social Security Administration (SSA) determined was invalid; or
- Been issued a new Social Security number.

Once a participant has disclosed and the Housing Authority has verified each SSN, the following rules apply:

*Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN.* When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the SSN to the Housing Authority at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s).

*Addition of new household member who is under the age of 6 and has no assigned SSN.* When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child within 90 calendar days of the child being added.

The Housing Authority shall grant an extension of one additional ninety (90) day period if the processing entity, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant.

The mandatory social security number requirements do not apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families.

#### Termination of assistance or termination of participants

The HA must terminate the assistance or tenancy or both of a participant, if the participant does not meet the applicable SSN disclosure, documentation and verification requirements.

#### Submission of evidence of citizenship or eligible immigration status (continues to be the same):

- For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. national. The Housing Authority must obtain verification of the declaration by requiring presentation of a U.S. Passport, U.S. birth certificate, Employment Authorization card, Temporary Resident card or other appropriate documentation outlined in section 214.
- For non-citizens, adequate evidence of a signed declaration or eligible immigration status on the Section 214 document.

HUD makes it clear that the above requirements are not intended to apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families, or authorize their eviction or denial of admission on the basis of the new requirements pertaining to obtaining social security numbers.

### **K. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 982.207] Local Preferences as determined by the Housing Authority**

#### **Verification of a Local Preference**

Documents will be accepted, as applicable, as proof of residency and veteran/active serviceperson status. Other situations that qualify a family for a local preference must be certified by a third-party.

#### **Federally Declared Disaster Areas**

Families who were receiving Housing Choice Voucher assistance will take precedence over other waiting list place holders. New applicants to the Housing Choice Voucher program must be a family displaced by a natural disaster, including disasters recognized by the Federal government, which extensively damaged or destroyed their dwelling.

#### **Involuntary Displacement**

Families who claim they are being or have been displaced due to either a disaster or government action:

- Family to provide written verification by the displacing agency, or by a service agency such as the Red Cross.

Families who claim they have been or are about to be displaced to avoid reprisals for providing information to assist police in a criminal investigation:

- Certification of threat assessment by a law enforcement agency.
- Oral or written recommendation from law enforcement agency or HUD.

Displacement by inaccessibility of unit:

- A statement from the owner of the critical elements that are inaccessible, and that the owner is not going to make the needed modifications, or permit the family to make the modifications.
- An inspection by the Housing Authority to verify inaccessibility of critical elements.
- Statement from the owner of the building that the accommodations required will not be made.
- If the owner permits the tenant to make the modifications, verification that the family cannot afford the expense.

Displacement by HUD disposition of a project:

- Written verification from HUD.

Determination of Standard Replacement Housing:

- Inspection by a Housing Authority inspector and/or certification by landlord.

### **Residency Preference**

For families who live, work or have been hired to work in the jurisdiction of the Housing Authority. In order to verify that an applicant is a resident, the Housing Authority will require a minimum of three (3) of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, driver's license, voter's registration records or credit reports. For families who have been hired to work in jurisdiction of the Housing Authority, a statement from the employer will be required.

### **Veterans Preference**

This preference is available to current members of the U.S. Military Armed Forces, veterans, or surviving spouses of veterans. The Housing Authority will require U.S. government documents which indicate that the applicant qualifies under the above definition.

### **Disability Preference**

This preference is available for families with a member who has a disability as defined in this Administrative Plan. The Housing Authority will require appropriate documentation from a knowledgeable professional.

The Housing Authority will not inquire as to the nature of the disability except as to verify necessity for accessible unit. An award letter or other proof of eligibility for Social Security disability or SSI will be acceptable.



# Chapter 8

## VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302, 982.303; 982.313, 982.315, 982.316, 982.54]

### INTRODUCTION

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

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

When funding is available, the Housing Authority will issue vouchers to applicants whose eligibility has been determined.

The number of vouchers issued must ensure that the Housing Authority stays as close as possible to 100 percent (100%) lease-up. The Housing Authority performs a monthly calculation electronically to determine whether vouchers can be issued.

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

**Initial Applicant Briefing**

A full HUD required oral briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups and individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to the Application's Compliance Supervisor or his or her designee. Briefings will be conducted in English.

When the Housing Authority selects a family to participate in a tenant-based program, the Housing Authority must give the family an oral briefing. The briefing must include information on the following subjects:

1. A description of how the program works;
2. Family and owner responsibilities; and
3. Where the family may lease a unit, including renting a dwelling unit inside or outside the Housing Authority jurisdiction, and any information on selecting a unit that HUD provides.

This will enable the applicants to utilize the program to their advantage, and it will prepare the applicants to discuss it with potential owners and property managers.

The Housing Authority will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings, without prior notification and approval of the Housing Authority, may be denied admission. The Housing Authority will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

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

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

The family is provided with the following information and materials:

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

2. A description of the method used to calculate the housing assistance payment for a family, including how the Housing Authority determines the payment standard for a family; how the Housing Authority determines the maximum allowable rent for an assisted unit, how the Housing Authority determines total tenant payment for a family and information on the payment standard.
3. The jurisdiction where the family may lease a unit. For a family that qualifies to lease a unit outside the Housing Authority jurisdiction under portability procedures, the information must include an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability.
4. The HUD required Tenancy Addendum, which must be included in the lease.
5. The “Request for Tenancy Approval Form” and a description of the procedure for requesting approval for a unit.
6. A statement of the Housing Authority policy on providing information about families to prospective owners.
7. The Housing Authority subsidy standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
8. The HUD brochure “A Good Place to Live” on how to select a unit that complies with HQS.
9. The HUD brochure on lead-based paint entitled “Protect Your Family from Lead in Your Home”.
10. Information on Federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The Housing Authority will also include the pamphlet “Fair Housing: It's Your Right” and other information about fair housing laws and guidelines. The Housing Authority will give participants who claim discrimination a copy of HUD Form 903 to file a complaint.
11. A list of landlords or other parties willing to lease to assisted families or help in the search and known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.
12. If the family includes a person with disabilities, the Housing Authority will provide assistance in locating accessible units and a list of available accessible units known to the Housing Authority.
13. The family obligations under the program.
14. The grounds on which the Housing Authority may terminate assistance for a participant family because of family action or failure to act.

15. Housing Authority informal hearing procedures including when the Housing Authority is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
16. Information regarding the Housing Authority's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.
17. A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration.
18. An Owner's Handbook and a Housing Quality Standards (HQS) checklist.
19. Procedures for notifying the Housing Authority and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
20. The family's rights as a tenant and as a program participant.
21. Requirements for reporting changes between annual re-certifications.
22. Information on security deposits and legal referral services.
23. Exercising choice in residency.
24. Choosing a unit carefully and only after due consideration.
25. The Family Self Sufficiency program and its advantages.
26. If the family includes a person with disabilities, the Housing Authority will ensure compliance with 24 CFR 8.6 to ensure effective communication.
27. Debts Owed Form.
28. Carbon Monoxide Flyer.
29. Maps and area characteristics including full range of areas where families may look for housing. Information includes the advantages of living in areas with low concentrations of low income families, job opportunities, schools, transportation, and other services in those areas.

### **Move Briefing**

Appropriate information will be provided to participants who will be reissued a voucher to move, and who have been recertified within the last one hundred twenty (120) days, and have given notice of intent to vacate to their landlord. This briefing may include incoming portable families.

### **Owner Briefing**

Briefings are held for owners as needed. Prospective owners are also welcome at the tenant briefing. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties.

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

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

The Housing Authority will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Providing families with a search record form to gather and record information
- Direct contact with landlords
- Counseling with the family
- Providing information about services in various non-impacted areas
- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with Fair Housing groups or agencies

**D. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]**

The owner is not required to but may collect a security deposit from the tenant. Security deposits charged by owners may not exceed those charged to unassisted tenants (or the maximum prescribed by State or local law.)

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

**E. TERM OF VOUCHER [24 CFR 982.303]**

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the Housing Authority and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective. The voucher is valid for a period of at least sixty (60) calendar days from the date of issuance. The family must submit the Request for Tenancy Approval (RTA) and a Lease/Rental Agreement within the sixty (60) day period unless an extension has been granted by the Housing Authority.

**Extensions**

The Housing Authority may extend the voucher in one or more increments. Unless approved by the Director of Rental Assistance or their designee, no more than two (2) thirty (30) days or less will be granted and never for a total of more than one hundred twenty (120) days. If as a reasonable accommodation, the family needs an extension in excess of one hundred twenty (120) days, the Housing Authority will review such request on a case by case basis.

A family must submit a written request for an extension of the voucher time period. All requests for extensions must be received prior to the expiration date of the voucher. Extensions are permissible at the discretion of the Housing Authority up to a maximum of an additional sixty (60) days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty (60) day period (verification may be required).
- The Housing Authority is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the Housing Authority, throughout the initial sixty (60) day period. A completed search record may be required.
- The family was prevented from finding a unit due to disability accessibility requirements or a large size five (5) bedroom unit requirement. The search record may be required as verification.

### **Expirations**

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

### **Tolling Days**

The voucher term will be suspended (the clock on the family's voucher is stopped) from the date a Request for Tenancy Approval is received until the Housing Authority approves or denies the request. The Housing Authority may grant a family a suspension of the voucher term if the family has submitted a request for approval of the tenancy during the term of the voucher. The family is entitled to any remaining time from suspension date to the voucher expiration date.

### **Assistance to Voucher Holders**

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

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

After the first sixty (60) days of the search, the Housing Authority may require the family to provide a search record.

## **F. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]**

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

- Which of the two new family units has custody of the dependent children.
- Which family member was the head of household when the voucher was initially issued

(listed on the initial application).

- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which of the family members remain in the original assisted unit.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the Housing Authority is bound by the court's determination of which family members continue to receive assistance in the program.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the Housing Authority will terminate assistance on the basis of failure to provide information necessary for a recertification.

**G. REMAINING MEMBER OF TENANT FAMILY – RETENTION OF VOUCHER  
[24 CFR 982.315]**

To be considered the remaining member of the tenant family, the person must have been previously approved by the Housing Authority to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor.
- The Housing Authority has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the children for an indefinite period.
- A reduction in family size may require a reduction in the voucher family unit size.

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), the Housing Authority must ensure that the victim retains assistance.

- The factors to be considered in making this decision under the PHA policy may include:
  - Whether the assistance should remain with family members remaining in the original assisted unit.
  - The interest of minor children or of ill, elderly, or disabled family members.

- Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.

Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and whether the abuser is still in the household.



# Chapter 9

## REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION

[24 CFR 982.302]

### INTRODUCTION [24 CFR 982.305(a)]

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

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

## **A. TERM OF ASSISTED TENANCY [24 CFR 982.309]**

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

The RTA must be signed by both the owner and voucher holder. The Housing Authority will not permit the family to submit more than one RTA at a time. The Housing Authority will review the proposed lease and the RTA documents to determine whether or not they are approvable. The request will be approved if:

- The unit is an eligible type of housing
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
- The rent is reasonable and approvable
- The security deposit is approvable in accordance with State or local law
- The proposed lease complies with HUD and Housing Authority requirements (see "Section D" of this chapter)
- The owner is approvable, and there are no conflicts of interest (see Chapter 16, "Owner Disapproval and Restriction" of this Administrative Plan)

In addition to the above, at the time a family initially receives assistance (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed forty percent (40%) of the family monthly adjusted income (see Chapter 11, "Owner Rents, Rent Reasonableness and Payment Standards" of this Administrative Plan).

### **Disapproval of Request for Tenancy Approval (RTA)**

If the Housing Authority determines that the RTA cannot be approved for any reason, the landlord and the family will be notified in writing.

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

The time limit on the Voucher will be suspended while the RTA is being processed.

## **B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.352]**

The Housing Authority will approve any of the following types of housing in the voucher program:

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and the pad.

- Manufactured homes where the tenant owns the mobile home and leases the pad.
- Units owned (but not subsidized) by the Housing Authority (following HUD prescribed requirements).
- Shared housing units that meets Housing Quality Standards.
- Single Room Occupancy.
- Assisted Living Units.

The Housing Authority will not approve:

- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes as described above.
- The owner of a shared housing unit may reside in the unit. A resident owner may enter into a Housing Assistance Payment (HAP) Contract with the Housing Authority. However, housing assistance may not be paid on behalf of an owner. An assisted person may not be related by blood or marriage to a resident owner.
- Nursing homes or other institutions that provide care.
- School dormitories and institutional housing.
- Any other type of housing prohibited by HUD.

**C. RESTRICTION ON RENTING FROM RELATIVES [24 CFR 982.306 (d)]**

Effective June 17, 1998, the Department of Housing and Urban Development (HUD) has limited the circumstances under which landlords can lease a unit to relatives under the Housing Choice Voucher program. This policy applies to new admissions and to transfers. The Housing Authority will not approve a unit if the landlord is related to any of the tenant's family members in one of the following ways:

- Parent
- Child
- Grandparent
- Grandchild
- Sister
- Brother

The Housing may approve a unit where the owner and the tenant are related if it determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

The Housing Authority will not approve shared housing assistance for a family if the owner resides in the unit and is related by blood and/or marriage to the assisted family. Although other regulations

permit the leasing of a rental unit from certain relatives when needed as a reasonable accommodation, the U.S. Department of Housing and Urban Development (HUD) has not established a similarly regulatory provision for shared housing.

#### **D. LEASE REVIEW [24 CFR 982.308]**

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

The family and owner must submit a standard form lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with State and local law. The lease must specify:

- The names of the owner and tenant
- The address of the unit rented (including apartment number, if any)
- The amount of the monthly rent to owner
- The utilities and appliances to be supplied by the owner and what utilities and appliances are to be supplied by the family
- The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

House rules of the owner may be attached to the lease provided they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

#### **Actions before Lease Term**

All of the following must always be completed before the beginning of the initial term of the contract for a unit:

- The Housing Authority has inspected the unit and has determined that the unit satisfies Housing Quality Standards (HQS)
- The Housing Authority has determined that the rent charged by the owner is reasonable
- The landlord and the tenant have executed the lease, including the HUD prescribed tenancy addendum
- The Housing Authority has approved leasing of the unit in accordance with program requirements
- When the gross rent exceeds the applicable payment standard for the family, the Housing Authority must determine that the family share (total family contribution) will not be more than forty percent (40%) of the family's monthly adjusted income

### **Term of the Assisted Tenancy**

The initial term of the lease must be for at least one year. The Housing Authority may approve a shorter initial term if the Housing Authority determines that:

- The shorter term would improve housing opportunities for the tenant
- The shorter term is the prevailing local market practice

During the initial term of the lease, the owner may not raise the rent to owner.

### **E. SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the Housing Authority.

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

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the Housing Authority. If agreements are entered into at a later date, they must be approved by the Housing Authority and attached to the lease.

The Housing Authority will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

### **F. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]**

See Chapter 10, "Housing Quality Standards and Inspections" in this Administrative Plan.

### **G. RENT LIMITATIONS**

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

By accepting each monthly housing assistance payment from the Housing Authority, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the Housing Authority with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined and approved by the Housing Authority.

**H. PROPOSED RENT [24 CFR 982.502]**

In any of the programs, if the proposed contract rent is not reasonable and at the family's request, the Housing Authority will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than forty percent (40%) of the family's monthly adjusted income, the Housing Authority will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the Housing Authority will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner. If the rent can be approved after negotiations with the owner, the Housing Authority will continue processing the RTA. If the revised rent involves a change in the provision of utilities, a new RTA and lease must be submitted by the owner.

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

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

In accordance with HUD requirements, the Housing Authority must furnish prospective owners with the family's current and prior address as shown in the Housing Authority's records and, if known to the Housing Authority, the name and address of the landlord at the family's current and prior address.

The Housing Authority will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

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

A statement of the Housing Authority's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The Housing Authority will provide documented information regarding tenancy history for the past two (2) years to prospective landlords, upon written request from the landlord (if such information is available to the Housing Authority).

The information will be provided in writing.

Only designated staff may provide this information. The Housing Authority's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

**J. OWNER DISAPPROVAL [24 CFR 982.306]**

See Chapter 16, "Owner Disapproval and Restriction" of this Administrative Plan."

**K. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the total family share prior to the effective date of the Housing Assistance Payment (HAP) contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, the Housing Authority need not obtain new verifications before signing the HAP Contract, even if verifications are more than sixty (60) days old.

**L. CONTRACT EXECUTION PROCESS [24 CFR 982.305]**

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

The Housing Authority makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than sixty (60) days after commencement of the lease term and no payments will be made until the contract is executed.

The following Housing Authority representatives are authorized to execute a contract on behalf of the Housing Authority:

- Director of Rental Assistance
- Compliance Supervisors

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide a Federal Employer Tax Identification number or Social Security number. The owner must provide a home telephone number and business number if applicable. A driver's license or other photo identification may be requested. Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill, and a copy of the Management Agreement if the property is managed by a management agent.

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

#### **M. OWNER RESPONSIBILITIES [24 CFR 982.452]**

- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit. The fact that an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of tenancy if the applicant otherwise qualifies for tenancy.
- Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance. For provisions on family maintenance responsibilities, see §982.404(a)(4).
- 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 contribution (the part of rent to owner not covered by the housing assistance payment).
  - Any charges for unit damage by the family.
- Enforcing tenant obligations under the lease.

Paying for utilities and services (unless paid by the family under the lease).



# Chapter 10

## HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

### INTRODUCTION

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

The Housing Authority will inspect each unit under contract at least annually. The Housing Authority will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by the Section Eight Management Assessment Program (SEMAP) annually to maintain the Housing Authority’s required standards and to assure consistency in the Housing Authority’s program. This chapter describes the Housing Authority’s procedures for performing HQS and other types of inspections, and Housing Authority standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term HQS in this Administrative Plan refers to the combination of both HUD and Housing Authority requirements (see Section F, “Acceptability Criteria and Exceptions to HQS” later in this chapter.)

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

The Housing Authority has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations.

All units must meet the minimum standards set forth in the City of Stockton Building/Housing Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

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

All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RTA) to have the utilities turned on. The Inspector will schedule a re-inspection.

If the tenant is responsible for supplying the stove and/or the refrigerator, the stove and/or refrigerator must be placed in the unit before the inspection.

There are four types of inspections the Housing Authority will perform:

1. Initial/move-in: conducted upon receipt of Request for Tenancy Approval (RTA)
2. Annual: must be conducted within twelve (12) months of the last annual inspection
3. Special/complaint: at the request of owner, family, an agency or a third-party
4. Quality Control

**B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b) (2)]**

**Initial Inspections [FR Notice 1/18/17]**

The Housing Authority may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

**Timely Initial HQS Inspection**

The Housing Authority will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service. The Housing Authority will periodically review the average time required for a family and owner to have a unit inspected from the time the RTA is submitted by the family and owner to the Housing Authority.

The Housing Authority will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within fifteen (15) days unless the Housing Authority determines that it is unable to do so in the stated timeframe, in which case the file will be

appropriately documented.

If the Housing Authority determines after a review of files that the average time for a family and owner to obtain an initial inspection is longer than fifteen (15) days, the Housing Authority will review staffing needs relevant to the HQS inspection.

The initial inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Administrative Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.
- If the unit fails the initial HQS inspection, the family and owner will be advised to notify the Housing Authority once repairs are completed.

On an initial inspection, the owner will be given up to thirty (30) days to correct the items noted as fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit. The owner will be allowed up to two (2) re-inspections for repair work to be completed.

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

The Housing Authority conducts an inspection in accordance with HQS at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates. HQS deficiencies, which cause a unit to fail, must be corrected by the landlord, unless it is a deficiency for which the tenant is responsible.

In accordance with Section 220 of the 2014 Appropriations Act, the Housing Authority may conduct biennial inspections in lieu of annual inspections. Once the Housing Authority has conducted a complete inspection under a Housing Assistance Payment Contract, it may not re-inspect until the lapse of 24 months following the last inspection. This does not apply to initial inspections for units that are not yet under a Housing Assistance Payment Contract. Initial inspections are still required. The Housing Authority will continue to conduct special inspections on an as needed basis. The Housing Authority may conduct more frequent inspections on units under Housing Assistance Payment Contract that are suspected of detrimental failed items.

The family must allow the Housing Authority to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)]. Inspections will be conducted on business days only. Reasonable hours to conduct an inspection are between 7:00 a.m. and 5:00 p.m. The Housing Authority will notify the family in writing or by phone at least 24 hours prior to the inspection.

The family and owner are notified of the date and time of the inspection appointment by mail and/or phone. If the family is unable to be present, they must reschedule the appointment so that the

inspection is completed within thirty (30) days.

If the unit fails the inspection, the family and owner are notified of the deficiencies by mail. Verification that the deficiencies are corrected may be done by other means than a re-inspection. If the family is not at home for the re-check appointment, a card will be left at the unit and a final appointment is automatically scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility) and a notice of the owner's responsibility to notify the family.

If the family misses two (2) inspection appointments, the family has violated a family obligation and their assistance will be terminated in accordance with the termination procedures in this Administrative Plan.

### **Time Standards for Repairs**

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification (see "Emergency Repair Items" section G of this Chapter).

For non-emergency items, repairs must be made within 30 days. For major repairs, the Inspector may approve an extension beyond 30 days. The Housing Authority may charge a fee if an owner stated that a deficiency had been fixed and the deficiency is found during reinspection to persist or if a reinspection conducted after the expiration of the timeframe of repairs reveals that the deficiency persists. The Housing Authority will provide the owner with a fee schedule.

### **Rent Increases**

Rent to owner increases will not be approved if the unit is in a failed condition. Rent increases will not be approved within the initial contract term. The unit must have had a passed an HQS inspection within the previous twelve (12) month period.

## **D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]**

If at any time the family or owner notifies the Housing Authority that the unit does not meet HQS, the Housing Authority will conduct an inspection.

The Housing Authority may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The Housing Authority will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the annual inspection date is within one hundred twenty (120) days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as an annual and all annual procedures will be followed.

## **E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]**

Quality Control inspections will be performed by the Director of Rental Assistance or Compliance Supervisor on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior three (3) months), a cross-section of neighborhoods, and a cross-section of inspectors.

**F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)];  
982.401(f)(1)**

**CALIFORNIA HEALTH AND SAFETY CODE 13260, 1205.1, 1205.2, 1205.3**

The Housing Authority adheres to the acceptability criteria in the program regulations with local codes and the additions described below:

1. Smoke detectors for persons with hearing disabilities. One smoke detector for the hearing impaired will be required in the household per the following criteria:
  - Must meet National Fire Protection Association Standard 74 (or its successor standard).
  - Must be located within the bedroom of the hearing impaired person. If existing smoke detectors are hardwired, the smoke detector designed for the hearing impaired must be hardwired to the primary smoke detector. If the existing smoke detector system is not hardwired, the hearing impaired smoke detector must be installed within the bedroom. It is not required to be hardwired but must have a battery back-up.
  - Hearing impaired smoke detectors must meet the following qualifications:
    - 177 candela strobe light
    - 85 decibel (dBA)

The Housing Authority may accept landlord or tenant certification that the appropriate criteria has been met.

2. Carbon monoxide detector. California Health and Safety Code 13260 requires that an owner or owner's agent of a dwelling unit intended for human occupancy that rents or leases the dwelling unit to a tenant shall maintain carbon monoxide devices in the dwelling unit.

Carbon Monoxide detectors shall be installed on every floor, including the basement and outside each sleeping area.

The carbon monoxide device shall be operable at the time that the tenant takes possession of the unit. A tenant shall be responsible for notifying the owner or owner's agent if the tenant becomes aware of an inoperable or deficient carbon monoxide device within his or her unit. The owner or owner's agent shall correct any reported deficiencies or inoperability's in the carbon monoxide device.

California's Carbon Monoxide Poisoning Prevention Act of 2010 requires that all residential properties be equipped with a carbon monoxide detector when the property has a fossil fuel burning heater such as a gas stove, gas furnace, gas water heater or any other appliance, fireplace, and/or attached garage. All single family homes in the above mentioned structure types must be equipped with a detector on or before July 1, 2011.

All other multi-family residential units (apartments, duplex's, etc.) must be equipped with a

carbon monoxide detector on or before January 1, 2013.

3. Doors:

Doors cannot have double key dead bolt locks. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

4. Security:

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

5. Bedrooms:

Bedrooms in basements, attics or garages are not allowed unless they meet local code and HQS requirements and must have adequate ventilation and emergency exit capability. Verifications regarding local requirements may be requested.

6. Water Heater:

Water heaters must have a temperature-pressure relief valve and discharge line (directed towards the floor or outside of the living area) as a safeguard against buildup of steam if the water heater malfunctions. Discharge pipes must be made of rigid pipe material (not garden hose or thin plastic pipe). Water heaters shall be anchored, braced or strapped to resist horizontal displacement due to earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions. At the lower point, the strapping shall maintain a minimum distance of 4 inches above the controls.

7. Pools:

Pools should not be empty or create unsafe conditions for the family. The Housing Authority may request that a fence be built around the pool or other safety devices be installed to ensure the safety of small children.

8. Fences:

For safety reasons, owners may be requested to install, repair or remove a fence.

9. Mail Boxes:

Each unit must have its own official mailbox where the U.S. Postal Service officially delivers mail to the physical addresses.

10. Utility Meters:

Each unit must have individual meters to measure the family's consumption if they are to be responsible for paying certain utilities, such as gas, water and electricity. The owner will be

responsible for paying utilities for units with centralized meters.

## 11. Windows

Although 24 CFR 982.401(f) (2) (i) states “There must be at least one window in the living room and in each sleeping room”, 24 CFR 982.401 (f)(1) Performance Requirement states “Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants.” The 2013 California State Building Code (CBC) Section 1205.1 states that “Every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings in accordance with Section 1205.2 or shall be provided with artificial light in accordance with 1205.3” which states: “Artificial light shall be provided that is adequate to provide an average illumination of 10 foot-candles (107 lux) over the area of the room at a height of 30 inches above the floor area.”

### **Tenant Preference Items**

HUD requires the Housing Authority to enforce minimum HQS but also requires that certain judgment about acceptability be left to the family.

### **Modifications**

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. Housing Authority will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

## **G. EMERGENCY REPAIR ITEMS [24 CFR 982. 404]**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within twenty-four (24) hours of notice by the inspector:

- Any condition that jeopardizes the security of the unit.
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling.
- Natural gas leak or fumes.
  - A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled.
- Electrical problem which could result in shock or fire.
  - A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed.
  - A light fixture is hanging by its wires.
  - A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit.
  - A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed.

- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses.
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections.
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
- Exposed bare wires or electrical connections.
- Any condition that results in openings in electrical panels or electrical control device enclosures.
- Water leaking or ponding near any electrical device.
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- Absence of a working heating system when outside temperature is below 50 degrees Fahrenheit on the day of inspection. If there is a weather forecast predicating temperatures to be below 50 degrees Fahrenheit at any point within 48 hours of the actual time of inspection, the absence of a working heating system will be addressed immediately as a health and safety issue on a case-by-case basis.
- Utilities not in service, including no running hot water.
- Broken glass where someone could be injured.
- Conditions that present imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
  - Any components that affect the function of the fire escape are missing or damaged.
  - Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency.
  - The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.
- Absence of a functioning toilet in the unit.
- Inoperable or missing smoke detector.
- Missing or inoperable carbon monoxide detector.
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required).
- Window bars in bedrooms with no release mechanism.
- Combustible materials near the gas water heater or gas furnace.
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting.
  - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases.
  - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside.
  - A fuel-fired space heater is not properly vented or lacks available combustion air.
  - A non-vented space heater is present.
  - Safety devices on a fuel-fired space heater are missing or damaged



- The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas.
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit.

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

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

If the emergency repair item(s) are not corrected in the time period required by the Housing Authority and the owner is responsible, the HAP will be abated and the HAP Contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the Housing Authority, and it is an HQS breach which is a family obligation, the Housing Authority will terminate the assistance to the family.

### **Smoke Detectors**

Inoperable smoke detectors are a serious health threat and will be treated by the Housing Authority as an emergency (24 hour) fail item.

Each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements (except for crawl spaces and unfinished attics). Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing impaired person, smoke detectors must have an alarm system, designed for hearing impaired person as specified in NFPA 74 (or successor standards).

If the smoke detector is not operating properly the Housing Authority will contact the owner by phone and request the owner to repair the smoke detector within 24 hours.

If the Housing Authority determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the Housing Authority will re-inspect the unit the following day.

The Housing Authority will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. The warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

### **Carbon Monoxide Detectors**

California Health and Safety Code 13260 requires that an owner or owner's agent of a dwelling unit intended for human occupancy that rents or leases the dwelling unit to a tenant shall maintain

carbon monoxide devices in the dwelling unit.

Carbon Monoxide detectors shall be installed on every floor, including the basement and outside each sleeping area. The carbon monoxide device shall be operable at the time that the tenant takes possession of the unit. A tenant shall be responsible for notifying the owner or owner's agent if the tenant becomes aware of an inoperable or deficient carbon monoxide device within his or her unit. The owner or owner's agent shall correct any reported deficiencies or inoperability's in the carbon monoxide device.

California's Carbon Monoxide Poisoning Prevention Act of 2010 requires that all residential properties be equipped with a carbon monoxide detector when the property has a fossil fuel burning heater such as a gas stove, gas furnace, gas water heater or any other appliance, fireplace, and/or attached garage. All single family homes in the above mentioned structure types must be equipped with a detector on or before July 1, 2011.

All other multi-family residential units (apartments, duplex's, etc.) must be equipped with a carbon monoxide detector on or before January 1, 2013.

#### **H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) [24 CFR 982.405, 982.453]**

When it has been determined that a unit on the program fails to meet HQS, and the owner is responsible for completing the necessary repair(s) in the time period specified by the Housing Authority, the HAP to the owner will be abated.

##### **Abatement**

If an owner fails to correct HQS deficiencies by the time specified by the Housing Authority, HUD requires the Housing Authority to abate housing assistance payments. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the Housing Authority's portion of rent that is abated. Owner rents are not abated as a result of HQS violations caused by the family.

##### **Extensions**

Extensions will be granted in cases where the Housing Authority has determined that the owner has made a good faith effort to correct the deficiencies and is unable to do so for reasons beyond the owner's control such as:

- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts contracting for services.
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
- The repairs must be delayed due to climate conditions.
- Other extenuating circumstances may be considered by the Housing Authority on a case by case basis.

The extension will be made for a period of time not to exceed ninety (90) days. At the end of that

time, at the Housing Authority's discretion, if the work is not completed or substantially completed, the Housing Authority will begin the abatement.

### **Termination of Contract**

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

If repairs are completed before the effective termination date, the termination may be rescinded by the Housing Authority if the tenant chooses to remain in the unit.

## **I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404]**

The family is responsible for a breach of the HQS that is caused by any of the following:

- The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
- The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
- Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear.

The owner may be responsible for all other HQS violations.

## **J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]**

If non-emergency violations of HQS are determined to be the responsibility of the family, the Housing Authority will require the family make any repair(s) or corrections within thirty (30) days. If the repair(s) or correction(s) are not made in this time period, the Housing Authority will terminate assistance to the family, and provide an opportunity for an informal hearing.

Extensions in these cases must be approved by the Director of Rental Assistance or his or her designee. The owner's rent will not be abated for items which are the family's responsibility. If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

# Chapter 11

## OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.503, 982.504, 982.505, 982.507]

### INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date”. These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

All Section 8 participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

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

This chapter explains the Housing Authority's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

**A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

The rent to owner is not only limited by rent reasonableness. The Housing Authority must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

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

During the initial term of the lease, the owner may not raise the rent to owner. When funding is available, the Housing Authority will review the owner's request to increase the contract rent.

**B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]**

Once the HAP Contract is executed, the Housing Authority begins processing payments to the landlord. A HAP register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP register for the following month. Checks are disbursed by the Accounting Department to the owner each month. Checks may be picked up by the owner at the Housing Authority. Checks will only be disbursed on the first working day of the month. Exceptions may be made with the approval of the Director of Rental Assistance in cases of hardship.

Checks that are not received will not be replaced until a written request has been received from the payee. The HA will not submit a stop payment on the check until 10 days have elapsed from the date the check was issued.

**Excess Payments**

The total of rent paid by the tenant plus the HAP to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the Housing Authority.

Owners who do not return excess payments will be subject to penalties as outlined in Chapter 18, "Owner or Family Debts to the Housing Authority" in this Administrative Plan.

**Late Payments to Owners**

The Housing Authority must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The Housing Authority will pay a late fee to the owner for housing assistance payments that are not received by the owner by the 5<sup>th</sup> business day of the month, if requested by the owner. Any such late fee to be paid by the Housing Authority will be equal to, but not greater than, the established amount of late fee charged to their tenant for late payment.

Proof of "mailed to" date will be:

- The date the HAP register was run; if the first of the month falls on a weekend or legal holiday, payments will be mailed on the following business day.

Proof of “received by owner” will be:

- Five (5) calendar days after date of mailing by Housing Authority or written certification from the owner, including but not limited to written information from the Post Office and/or postal carrier or other mail processing center. These terms apply to re-certifications only.

Payments to owners on all new contracts will be mailed within thirty (30) days of a passed HQS inspection, providing that all documents have been executed under program guidelines.

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

If Housing Assistance Payments are not paid promptly when due after the first two calendar months of the HAP contract term, the Housing Authority shall pay the owner penalties if all of the following circumstances apply:

1. Such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant;
2. It is the owner’s practice to charge such penalties for assisted and unassisted tenants; and
3. The owner also charges such penalties against the tenant for late payment of family rent to owner.

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

**C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]**

The Housing Authority will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. The Housing Authority must ensure that the rents paid for HCV assisted units do not exceed the rents for comparable units that are not assisted under a Federal, State, or local government program.

The following are considered to be assisted units and will not be considered when determining rent reasonableness:

- Units where the rent and/or rent increases are controlled or restricted by law or court order
- In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families.

The Housing Authority will not approve a lease until it is determined that the initial rent to owner is a reasonable rent. The Housing Authority must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent (5%) or greater decrease in the published Fair Market Rent (FMR) in effect sixty (60) days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

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

The owner will be advised that by accepting each monthly Housing Assistance Payment, they will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the same premises. If requested, the owner must give the Housing Authority information on rents charged by the owner for other units in the premises or elsewhere. The Housing Authority will only request information on the owner's units elsewhere if the Housing Authority has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are zip codes within the Housing Authority's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items may be used for rent reasonableness documentation:

- Size (number of bedrooms, square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing services
- Age of unit
- Unit type
- Maintenance
- Utilities

### **Rent Reasonableness Methodology**

Information is gathered on rental units in the Housing Authority's market area, and each unit is rated using a third party rent reasonableness system. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

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

The payment standard is used to calculate the Housing Assistance Payment (HAP) for a family. In accordance with HUD regulation, and at the Housing Authority's discretion, the voucher payment standard amount is set by the Housing Authority between ninety percent (90%) and one hundred ten percent (110%) of the HUD published Fair Market Rent (FMR). This is considered the basic range. The Housing Authority reviews the appropriateness of the payment standard annually when the FMR is published. In determining whether a change is needed, the Housing Authority will ensure that the payment standard is always within the range of ninety percent (90%) and one hundred ten percent (110%) of the new FMR, unless an exception payment standard has been approved by HUD.

The Housing Authority will establish a single voucher payment standard amount for each FMR area in the Housing Authority's jurisdiction. For each FMR area, the Housing Authority will establish payment standard amounts for each "unit size". The Housing Authority may have a higher payment standard within the Housing Authority's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the ninety percent (90%) and one hundred ten percent (110%) of FMR range.

The Housing Authority may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

**E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]**

Payment standards may be adjusted, within HUD regulatory limitations, to increase housing assistance payments in order to keep the family's rents affordable. The Housing Authority will not raise payment standards solely to make "high end" units available to voucher holders. The Housing Authority may use some or all of the measures below in making its determination whether an adjustment should be made to the payment standards.

**Assisted Family Rent Burdens**

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

If it is determined that particular unit sizes in the Housing Authority's jurisdiction have payment standard amounts that are creating rent burdens for families, the Housing Authority will modify its payment standards for those particular unit sizes.

The Housing Authority will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the Housing Authority's jurisdiction are paying.

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



### **Availability of Suitable Vacant Units below the Payment Standard**

The Housing Authority will review its rent reasonableness data and vacancy rate data to determine whether there is an ample supply of vacant units below the payment standard.

### **Quality of Units Selected**

The Housing Authority will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

### **Housing Authority Decision Point**

The Housing Authority will review the quality and size of units where the rents to owner are above the payment standard by more than twenty-five percent (25%). If more than fifty percent (50%) of families have selected above-average units or have selected larger units than the voucher size, the Housing Authority may elect not to increase the payment standard nor continue the analysis.

If the analysis continues, the Housing Authority will divide those rents between contracts within the first year and after the first year. If the rents to owner are more than twenty-five percent (25%) above the average, in any bedroom size, the Housing Authority will continue the analysis. If not, the Housing Authority may elect not to increase the payment standard for certain bedroom sizes.

### **Rent to Owner Increases**

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

### **Time to Locate Housing**

The Housing Authority may consider the average time period for families to lease up under the voucher program. If more than sixty percent (60%) of voucher holders are unable to locate suitable housing within the term of the voucher and the Housing Authority determines that this is due to sixty percent (60%) of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the payment standard may be adjusted.

### **Lowering of the Payment Standard (PIH 2011-28 (HA))**

Lowering of the FMR may require an adjustment of the payment standard. Additionally, statistical analysis may reveal that the payment standard should be lowered. In any case, the payment standard will not be set below ninety percent (90%) of the FMR without authorization from HUD.

Housing Authorities experiencing financial difficulties may request a regulatory waiver for good cause so that reduced payment standards may be applied immediately.

### **Decrease in the Payment Standard [24 CFR 982.505]**

If the Housing Authority changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the Housing Authority is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the Housing Authority does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may

not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the Housing Authority may either reduce the payment standard to the current amount in effect on the Housing Authority payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the Housing Authority must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The Housing Authority's policy on decreases in the payment standard during the term of the HAP contract applies to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

### **Financial Feasibility**

Before increasing the payment standard, the Housing Authority may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the Housing Authority will compare the number of families who could be served under a higher payment standard with the number assisted under current payment standards.

### **File Documentation**

A file will be retained by the Housing Authority for at least three years to document the analysis and findings to justify whether or not the payment standard was changed.

## **F. EXCEPTION PAYMENT STANDARDS**

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

## **G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM [24 CFR 982.308(g)]**

The owner is required to notify the Housing Authority, in writing, at least sixty (60) days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements [24 CFR 982.507].

## **H. ENHANCED VOUCHERS**

Enhanced vouchers are special vouchers available to tenants who would otherwise be adversely affected by HUD program decisions. Enhanced vouchers are generally issued to provide continued assistance for a family at the termination of project-based rental assistance. If the family stays in the same project, the voucher payment standard covers the full market rent.

In order to be eligible for the enhanced voucher, the families must be residing in the preservation eligible property on the effective date of conversion and must be income-eligible.

Enhanced vouchers have several special requirements, but in all other respects are subject to rules

of the tenant-based voucher program. The Housing Authority may not make payments to the owner until after execution of the HAP contract on behalf of an individual family, and the HAP contract may not be effective prior to the date the Housing Authority determines that the unit meets the HQS requirements of the program.

Families impacted by conversion actions are eligible to receive an enhanced payment standard while residing in preservation eligible projects. The enhanced payment standard will be applicable provided the gross rent is reasonable and exceeds the applicable Housing Authority payment standard. Enhanced voucher assistance will continue as long as the family resides in a covered project.

Families receiving enhanced tenant-based/enhanced voucher assistance have a special statutory minimum rent requirement. The families new enhanced voucher minimum rent will be the greater of:

- (A) The percentage of the monthly adjusted income the family paid for gross rent on the effective date of conversion; or
- (B) Thirty percent (30%) of the family's current adjusted monthly income. If the family's income subsequently decreases to a significant extent (15% or more from the gross family income), the enhanced minimum rent changes from an actual dollar amount to a specific percentage of income.

#### **I. OVERSIZED UNIT/OVER-HOUSED FAMILY PAYMENT STANDARD**

The Housing Authority issues the eligible family an enhanced voucher based on the subsidy standards and not the actual size of the unit the family is presently occupying. If an appropriate size unit is not available, then the family must make a good faith effort to locate a unit outside the project.

# Chapter 12

## RECERTIFICATIONS

[24 CFR 982.516]

### INTRODUCTION

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

**A. ANNUAL ACTIVITIES [24 CFR 982.516]**

There are two (2) activities the Housing Authority must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of income and family composition
2. HQS inspection

At each annual anniversary date of the HAP contract, the Housing Authority must adjust the rent to owner at the request of the owner. The rent must be reasonable (as determined by the Housing Authority in accordance with 982.503).

The Housing Authority produces a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality standards, and factors related to family share can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Accounting Department.

**Moves between Reexaminations**

At the discretion of the Housing Authority when families move to another dwelling unit, an annual recertification may be scheduled (unless a recertification has occurred in the last one hundred twenty (120) days and the anniversary date will be changed). Income limits are not used as a test for continued eligibility at recertification. The transfer will be reported to HUD as an “other change of unit” and the anniversary date will remain the same annually.

**Reexamination Notice to the Family**

The Housing Authority will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least ninety (90) days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the Housing Authority will provide the notice in an accessible format. The Housing Authority will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

**Procedure**

The Housing Authority's procedure for conducting annual recertifications may be processed as follows:

- Schedule the date and time of appointment and mail a notification to the family.
- If necessary and appropriate, permit the family to change the scheduled date and time appointment by telephone or in writing.
- By mail as a reasonable accommodation for elderly or disabled families.
- By mail at the discretion of the Director of Rental Assistance or his or her designee.

**Completion of Annual Recertification**

The Housing Authority will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least thirty (30) days before the scheduled date of the change in family rent.

### **Persons with Disabilities**

Persons with disabilities who are unable to complete the recertification paperwork by mail or to come to the Housing Authority's office will be granted an accommodation by conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

### **Collection of Information [24 CFR 982.516(f)]**

The Housing Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. The Housing Authority will require the family to complete a Personal Declaration Form prior to all recertification interviews.

### **Requirements to Attend**

All adult household members will be required to attend the recertification interview. If the head of household is unable to attend the interview, the spouse or co-head may recertify for the family, provided that the head comes in within thirty (30) days to recertify.

### **Failure to Respond to Notification to Recertify**

The written notification must state which family members are required to attend the interview. The family may call to request another appointment date prior to the first scheduled appointment.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the Housing Authority, the Housing Authority will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the Housing Authority will send the family a notice of proposed termination which gives the family an option to request an informal hearing.

If the annual recertification letter is returned to the Housing Authority with a forwarding address, the Leasing Specialist will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

Exceptions to these policies may be made by the Director of Rental Assistance or his or her designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

### **Documents Required From the Family**

In the notification letter to the family, the Housing Authority will include instructions for the family to bring the following:

- Documentation of income or no income for all family members
- Documentation of all assets
- Documentation of any deductions/allowances
- Documentation to support claims
- Personal Declaration Form completed by head of household
- Birth certificate, picture I.D. and Social Security cards for new family members
- Three (3) current months of rent receipts

### **Verification of Information**

The Housing Authority will follow the verification procedures and guidelines described in this Administrative Plan. Verifications for reexaminations must be less than one hundred twenty (120) days old.

### **College Student Redetermination of Eligibility**

Each college student within a household must provide a written/signed certification that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support.

The college student must not be claimed as a dependent by parent(s) or legal guardian(s) on the Internal Revenue Services (IRS) tax return.

Each college student receiving an athletic scholarship must provide third party verification of amounts used towards housing costs.

The Housing Authority must verify, via independent third-party verification, all amounts anticipated to be received outside of the family during the twelve (12) month period following admission and the effective date of the annual reexamination.

This may be achieved by requesting a copy of the college student's Form 1040EZ, 1040, or 1040A tax returns for the prior year. The Housing Authority will check the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (see box "5" for Form 1040 EZ and box "6a" for Forms 1040 and 1040A). The Housing Authority may also, if practicable, review the college student's parents or guardians tax returns. The college student must supply any information that the Housing Authority or HUD determines is necessary in administration of public housing, voucher, or certificate programs (24 CFR 960.259 and 982.551).

Currently, the full amount of financial assistance from federal and state grants and/or loans, academic scholarships, and work study program wages paid directly to the student or the educational institution is not included in the determination of annual or adjusted income (24 CFR 5.609 (c)(6)). Amounts paid directly to the student for living expenses will be included as income. This excludes any financial assistance received for mandatory fees and charges in addition to tuition.

### **Tenant Rent Increase**

If the tenant rent increases, a thirty (30) day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty (30) days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the following month.

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

### **Tenant Rent Decreases**

If the tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay

so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the Housing Authority.

**B. REPORTING INTERIM CHANGES [24 CFR 982.516]**

Program participants must report all changes in household composition within thirty (30) days to the Housing Authority between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain Housing Authority approval prior to all other additions to the household.

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

If any new family member is added, family income must include any income of the new family member. The Housing Authority will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

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

An interim reexamination does not affect the date of the annual recertification. An interim reexamination will be scheduled for families with zero or unstable income every ninety (90) days.

The Housing Authority will review the Enterprise Income Verification (EIV) Income Report for each New Admission (form HUD-50058 action type 1) within ninety (90) days of the participant's admission date to confirm/validate the income reported by the family during the initial eligibility determination. Any income discrepancies will be resolved with the family within thirty (30) days of the date the EIV Income Report was run.

Any changes reported by participants other than those listed in this section will be noted in the file and computer by the staff person but will not be processed between regularly scheduled annual recertifications.

**Interim Reexamination**

**Increases in Income**

Families will be required to report all increases in income/assets within thirty (30) days of the increase.

The Housing Authority will not conduct interim reexaminations when families have an increase in monthly adjusted income of \$200 or less. Participants in the Family Self-Sufficiency (FSS) program are exempt from this rule as increases in income will generate a change in their escrow balance.

**Decreases in Income**

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



Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month. If reported after the fifteenth (15<sup>th</sup>) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported.

### **Housing Authority Errors**

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

### **C. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The Housing Authority will not reduce the family share of rent for families whose welfare assistance is reduced specifically because of:

- Fraud
- Failure to participate in an economic self-sufficiency program
- Noncompliance with a work activities requirement

However, the Housing Authority will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment.
- The family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of the time a family can receive benefits, causes the family to lose their welfare benefits.

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

### **Definition of “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 included in the family’s income for purposes of determining rent.

The amount of imputed welfare income is determined by the Housing Authority, based on written information supplied to the Housing Authority by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the reduction
- Subsequent changes in the term or amount of the benefit reduction.

The family’s annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency). The amount of imputed welfare income will be offset by the amount of

income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family claims the amount of imputed welfare income has been calculated incorrectly, designated staff will review the calculation for accuracy. If the imputed welfare income amount is correct, the Housing Authority will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with the Housing Authority determination.

### **Verification before Denying a Request to Reduce Rent**

The Housing Authority will obtain written verification from the welfare agency (San Joaquin County Human Services Agency) stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction. The Housing Authority will rely on the welfare agency's written notice to the Housing Authority regarding welfare sanctions. The welfare agency, at the request of the Housing Authority, will inform the Housing Authority of the:

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and
- Subsequent changes in term or amount of reduction.

### **Family Dispute of Amount of Imputed Welfare Income**

If the family disputes the amount of imputed income and the Housing Authority denies the family's request to modify the amount, the Housing Authority will provide the tenant with a notice of denial, which will include:

- An explanation for the Housing Authority's determination of the amount of imputed welfare income.
- A statement that the tenant may request an informal hearing.
- A statement that the information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be the Housing Authority's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

### **Cooperation Agreements [24 CFR 5.613]**

The Housing Authority has a written cooperation agreement in place with the local welfare agency which assists the Housing Authority in obtaining the necessary information regarding welfare sanctions.

The Housing Authority has taken an active approach in creating an effective working relationship between the Housing Authority and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Housing Choice Voucher (HCV) participants.

The Housing Authority and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit HCV participants.

**D. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS (MEID) [24 CFR 5.616; 982.201(b) (3)]**

**Initial Twelve-Month Exclusion**

The annual income for qualified families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continuing for a cumulative twelve (12) month period. After the disabled family receives twelve (12) cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

If the period of increased income does not last for twelve (12) consecutive months, the disallowance period may be resumed at any time within the forty-eight (48) month period, and continued until the disallowance has been applied for a total of twelve (12) months of each disallowance (the initial twelve (12) month full exclusion and the second twelve (12) month phase-in exclusion).

During the cumulative twelve (12) month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the Housing Authority will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

**Second Twelve-Month Exclusion and Phase-in**

During the second cumulative twelve (12) month period after the expiration of the initial cumulative twelve (12) month period referred to above, the Housing Authority must exclude from annual income of a qualified family fifty percent (50%) of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

**Maximum Four Year Disallowance**

The earned income disallowance is limited to a lifetime forty-eight (48) month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of twelve (12) months of full exclusion of incremental increase, and a maximum of twelve (12) months of phase-in exclusion during the forty-eight (48) month period starting from the date of the initial exclusion.

No earned income disallowance will be applied after the forty-eight (48) month period following the initial date the exclusion was applied.

A disabled family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the HCV Program and must meet one or more of the following conditions:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member during or within six (6) months after receiving assistance, benefits or services under any State program for Temporary Assistance to Needy Families (TANF) provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of “previously unemployed” includes a person with disabilities who has earned in the previous twelve (12) months no more than the equivalent earnings for working ten (10) hours per week for fifty (50) weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of an economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may 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 substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation ends in the program.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member’s income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

### **Applicability to Child Care Expense Deductions**

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

### **Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family’s file to show the reason for the reduced increase in rent.

Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason for the increase in earned income
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative twelve (12) month period of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the initial exclusion
- Date the twelve (12) month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative twelve (12) month period (phase-in) of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the phase-in exclusion
- Ending date of the maximum forty-eight (48) month, four (4) year disallowance period which is forty-eight (48) months from the date of the initial earned income disallowance

The Housing Authority will maintain a tracking system to ensure correct application of the earned income disallowance (see Section B of this chapter, “Reporting Interim Changes” for increases in income that must be reported.

### **Inapplicability to Admission**

The earned income disallowance is only applied to determine the annual income of families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

### **E. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

The HUD 50058 form will be completed and transmitted as required by HUD no later than 60 calendar days from the effective date of any action recorded on line 2b of the HUD 50058 form.

The notice of rent change is mailed to the owner and the tenant. If the family disagrees with the rent adjustment, they may request an informal hearing.

### **F. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)] Standard for Timely Reporting of Changes**

The Housing Authority requires that families report interim changes to the Housing Authority within thirty (30) days of when the change occurs. Any information, document or signature needed

from the family which is needed to verify the change must be provided within thirty (30) days of the change.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

### **Procedures when the Change is reported in a Timely Manner**

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

- Increases in the tenant rent are effective on the first of the month following at least a thirty (30) day notice. An increase in a monthly adjusted income of \$200 or less will not result in a change in the tenant's portion.
- Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month. If reported after the fifteenth (15<sup>th</sup>) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results. If a tenant requests a hardship to the written notification requirement of this interim policy, the Director of Rental Assistance or his or her designee may approve such request.

The change will not be made until the third party verification is received.

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

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

- Increases in tenant rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a repayment agreement or make a lump sum payment.
- Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month. If reported after the fifteenth (15<sup>th</sup>) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported. If a tenant requests a hardship to the written notification requirement of this interim policy, the Director of Rental Assistance or his or her designee may approve such request.

### **Procedures when the Change is Not Processed by the Housing Authority in a Timely Manner**

“Processed in a timely manner” means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that

date, the change is not processed by the Housing Authority in a timely manner.

In this case, an increase will be effective after the required thirty (30) day notice prior to the first of the month after completion of processing by the Housing Authority.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

**G. CONTINUANCE OF ASSISTANCE FOR “MIXED” FAMILIES [24 CFR 5.518]**

Under the Non-citizens Rule, “mixed” families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The non-citizens rule was implemented prior to November 29, 1996, and “mixed” families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

- The head of household or spouse is a U.S. citizen or has eligible immigrant status; and
- All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

“Mixed” families who qualify for continued assistance after November 29, 1996, may receive prorated assistance only.

**H. MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

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

# Chapter 13

## MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.353, 982.354, 982.355(a)]

### INTRODUCTION

**H**UD regulations permit families to move with continued assistance to another unit within the Housing Authority's jurisdiction, or to a unit outside of the Housing Authority's jurisdiction under portability procedures. The regulations also allow the Housing Authority the discretion to develop policies, which define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of, the Housing Authority's jurisdiction, and the policies for restriction and limitations on moves.



**A. ALLOWABLE MOVES**

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because the Housing Authority has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

The Housing Authority will consider protections to victims and/or affiliated individuals of domestic violence in accordance with VAWA 2010 and VAWA 2013.

**B. RESTRICTIONS ON MOVES [24 CFR 982.354, 982.552(a)]**

Families will not be permitted to move during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a twelve (12) month period.

The Housing Authority will deny permission to move if there is insufficient funding for continued assistance. The Housing Authority must provide written notification to the local HUD office within ten (10) business days of determining it is necessary to deny moves to a higher-cost unit based on insufficient funding.

Consistent with applicable civil rights laws and regulations, the Housing Authority will deny permission to move if:

- The family has been issued a Notice of Proposed Termination due to a violation of any family obligation(s).
- The family owes the Housing Authority money and is in arrears or has defaulted on a repayment agreement.
- The family has moved or been issued a voucher within the last twelve (12) months.

The Director of Rental Assistance and his or her designee may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

If the family or a member of the family, is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move. A Housing Authority may not terminate assistance if the family, with or without prior notification to the Housing Authority, moves out of a unit in violation of the lease, if such

move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit

**C. PROCEDURE FOR MOVES [24 CFR 982.354]**

**Issuance of Voucher**

Subject to the restrictions on moves and at the discretion of the Housing Authority, if the family has not been recertified within the last one hundred twenty (120) days, the Housing Authority may issue the voucher to move after conducting the recertification.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will not be changed to coincide with the new lease-up date.

**Notice Requirements**

Briefing sessions emphasize the family's responsibility to give the owner and the Housing Authority proper written notice of any intent to move.

The family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to the Housing Authority simultaneously.

**Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will start on the new unit on the effective date of the lease and contract. Housing assistance payments may overlap for the month in which the family moves.

**D. PORTABILITY [24 CFR 982.353]**

Portability applies to families moving out of or into the Housing Authority's jurisdiction within the United States and its territories.

**E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]**

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the Housing Authority's jurisdiction, anywhere in the United States, in the jurisdiction of a Housing Authority with a tenant-based program. When a family requests to move outside of the Housing Authority's jurisdiction, the request must specify the area to which the family wants to move.

The initial Housing Authority must not provide such portable assistance for a

participant if the family has moved out of the assisted unit in violation of the lease except as provided for in this subsection. If the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believes him- or herself to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move), and has otherwise complied with all other obligations under the Section 8 program, the family may receive a voucher from the initial Housing Authority and move to another jurisdiction under the Housing Choice Voucher Program.

The initial Housing Authority must promptly notify the receiving Housing Authority to expect the incoming family. This means the initial Housing Authority contacts the receiving Housing Authority on the family's behalf, typically by telephone, fax or electronic mail. Simply referring the family to HUD or a website for information on the receiving Housing Authority's address does not fulfill the responsibilities of the initial Housing Authority under the program regulations. The initial Housing Authority must also advise the family how to contact and request assistance from the Housing Authority (i.e. the name and telephone number of the staff person responsible for working with incoming portability families, and any procedures related to appointments for voucher issuance the Housing Authority has shared with the initial Housing Authority). The revised HUD Form 52665 now contains a line that the initial Housing Authority uses to identify the Housing Authority to which the initial Housing Authority is referring the family.

If there is more than one Housing Authority in the area in which the family has selected a unit, the family will select the receiving Housing Authority.

The portability restrictions do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member, or any family member who has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

### **Receiving Housing Authority Processing Responsibilities / Restrictions on Portability Applicants**

If the head or spouse did not have a domicile (legal residence) in the Housing Authority's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the Housing Authority approves such move. (NOTE: legal domicile is defined by local government.)

For a portable family that was not already receiving assistance in the Housing Authority's tenant based program, the Housing Authority must determine whether the family is eligible for admission under the receiving Housing Authority's program.

## **Participants**

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances:

- The receiving and initial Housing Authority's agree to allow the move
- The family's move relates to an opportunity for education, job training or employment

The Housing Authority will not permit families to exercise portability for the following reasons:

- If the family is in violation of a family obligation
- If the family owes money to the Housing Authority
- If the family has moved out of its assisted unit in violation of the lease

## **F. INCOMING PORTABILITY [24 CFR 982.355]**

### **Absorption or Administration**

The Housing Authority will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. HUD may determine in certain instances that a Housing Authority is not required to accept incoming portables, such as Housing Authority declared disaster area. However, the Housing Authority must have approval in writing from HUD before refusing any incoming portables. If administering, the family will be issued a "portability" voucher by the Housing Authority. The term of the voucher will not expire before the expiration date of any initial Housing Authority voucher. The family must submit a Request for Lease Approval for an eligible unit to the receiving Housing Authority during the term of the receiving Housing Authority voucher. The receiving Housing Authority may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the Housing Authority's jurisdiction, they must contact the initial Housing Authority to request an extension.

Once the receiving Housing Authority is determined, the initial Housing Authority must contact the receiving PHA, via email or other confirmed delivery method, prior to approving the family's request to move in order to determine whether the voucher will be absorbed or billed by the receiving Housing Authority. The receiving Housing Authority must advise the initial Housing Authority in writing, via email, or other confirmed delivery method, of its decision. If the receiving Housing Authority notifies the initial Housing Authority that it will absorb the voucher, the receiving Housing Authority cannot reverse its decision at a later date without consent of the initial Housing Authority.

The Housing Authority may absorb all incoming portable families provided that there is funding available.

When the Housing Authority does not absorb the incoming voucher, it will administer the initial Housing Authority's voucher and the receiving Housing Authority's policies will prevail.

For admission to the program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The receiving Housing Authority does not redetermine eligibility for a portable family that was already receiving assistance in the initial Housing Authority Housing Choice Voucher Program.

The Housing Authority will issue a “portability” voucher according to its own subsidy standards. If the family has a change in family composition, which would change the voucher size, the receiving Housing Authority will change to the proper size based on its own subsidy standards. The term of the receiving Housing Authority voucher may not expire before 30 calendar days from the expiration of the initial Housing Authority voucher. If the voucher expires before the family arrives at the receiving Housing Authority, the receiving Housing Authority must contact the initial Housing Authority to determine if it will extend the voucher. Once the receiving Housing Authority issues the portable family a voucher, the receiving Housing Authority’s policies on extensions of the voucher term apply. The receiving Housing Authority must notify the initial Housing Authority of any extensions granted to the term of the voucher.

### **Income and Total Tenant Payment of Incoming Portables [982.353(d)]**

As the receiving Housing Authority, the Housing Authority will conduct a recertification interview but only verify the information provided if the documents are missing or are over one hundred twenty (120) days old, whichever is applicable, or there has been a change in the family's circumstances.

If the Housing Authority conducts a recertification of the family, it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the Housing Authority's jurisdiction, the Housing Authority will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Approval of Tenancy**

A briefing will be mandatory for all portability families.

When the family submits a Request for Tenancy Approval (RTA), it will be processed using the Housing Authority's policies. If the family does not submit an RTA or does not execute a lease, the initial Housing Authority will be notified within sixty (60) days by the Housing Authority.

If the family leases up successfully, the Housing Authority will notify the initial Housing Authority within sixty (60) days and the billing process will commence.

The Housing Authority will notify the initial Housing Authority if the family fails to submit an RTA for an eligible unit within the term of the voucher.

If the Housing Authority denies assistance to the family, the Housing Authority will notify the initial Housing Authority within sixty (60) days and the family will be offered a review or hearing.

The Housing Authority will notify the family of its responsibility to contact the initial Housing Authority if the family wishes to move outside the Housing Authority's jurisdiction under continued portability.

### **Regular Program Functions**

The Housing Authority will perform all program functions applicable to the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition.
- Annual inspection of the unit.
- Interim examinations when requested or deemed necessary by the Housing Authority.

### **Terminations**

The Housing Authority will notify the initial Housing Authority in writing of any termination of assistance within sixty (60) days of the termination. If an informal hearing is required and is requested by the family, the hearing will be conducted by the Housing Authority, using the regular hearing procedures included in this Administrative Plan. A copy of the hearing decision will be furnished to the initial Housing Authority.

The initial Housing Authority will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial Housing Authority notifies the Housing Authority that the family is in arrears or the family has refused to sign a repayment agreement, the Housing Authority will terminate assistance to the family.

The receiving Housing Authority will be required to submit hearing determinations to the initial Housing Authority within thirty (30) days.

### **Required Documents**

As receiving Housing Authority, the Housing Authority will require the following documents from the initial Housing Authority:

- A copy of the family's voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- The most recent HUD Form 50058 and verifications of:
  - A. Current information related to eligibility including EIV printout
  - B. The administrative fee schedule for billing purposes.
- Form HUD-52665, Family Portability Information, Housing Choice Voucher Program.

### **Billing Procedures**

As the receiving Housing Authority, the Housing Authority will bill the initial Housing Authority monthly for HAP. The billing cycle for other amounts, including administrative fees and special claims will be monthly unless requested otherwise by the initial Housing Authority.

The Housing Authority will bill one hundred percent (100%) of the HAP, one hundred percent (100%) of special claims and the lesser of eighty percent (80%) of the initial Housing Authority's ongoing Administrative Fee or one hundred percent (100%) of the receiving Housing Authority's ongoing administrative fee for each "portability" voucher leased as of the first day of the month. If administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving Housing Authority may bill.

The Housing Authority will notify the initial Housing Authority of changes in subsidy amounts and will expect the initial Housing Authority to notify the Housing Authority of changes in the administrative fee amount to be billed.

## **Summary of Portability Billing Deadlines**

The following summarizes the relevant deadlines under the portability billing procedures.

- Submission of Initial Billing Amount (Part II of the Form HUD 52265): The Housing Authority must submit initial billing notice:
  - No later than ten (10) working days following the date the HAP contract was executed and;
  - In the time that it will be received, no later than sixty (60) days following the expiration date of the family's voucher issued by the initial Housing Authority.
- Payment of First Billing Amount: The initial Housing Authority makes payment within thirty (30) days of receipt of Part II of the HUD Form 52265 indicating the billing amount.
- Payment of Subsequent Billing Amounts: The initial Housing Authority is responsible for ensuring that subsequent billing amounts are received no later than the fifth (5<sup>th</sup>) working day of each month for which the monthly billing amount is due.
- Notification of Change in Billing Amount or Other Action: The Housing Authority notifies the initial Housing Authority of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but under no circumstance any later than ten (10) working days following the effective date of the change.

# Chapter 14

## CONTRACT TERMINATIONS

[24 CFR 982.311(b)(c)]

### INTRODUCTION

**T**he Housing Assistance Payment (HAP) Contract is the contract between the owner and the Housing Authority which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the Housing Authority and the owner, and the policies and procedures for such terminations.



**A. CONTRACT TERMINATION [24 CFR 982.311]**

The term of the HAP Contract is the same as the term of the lease. The contract between the owner and the Housing Authority may be terminated by the Housing Authority, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the Housing Authority to the owner after the month in which the contract is terminated. The owner must reimburse the Housing Authority for any subsidies paid by the Housing Authority for any period after the contract termination date.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

The Housing Authority will use the “Deceased Tenant Report” in order to minimize erroneous subsidy payments on behalf of a deceased single member of a household. The Housing Authority will immediately terminate program assistance for deceased single member households which result in termination of the HAP Contract. The owner is **not** entitled to HAP for any month following the month in which the death occurred. There are no exceptions to this policy and procedure.

**B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]**

Family termination of the lease must be in accordance with the terms of the lease.

**C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]**

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for any of the following:

- Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease.
- Violations of Federal, State or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises.
- Any drug-related or criminal activity on or off the premises by a covered person that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, persons residing in the immediate vicinity of the premises, or property management personnel.

- Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.
- Any violent criminal activity by a covered person on or near the premises.
- A tenant who is a fugitive felon or parole violator.

During the initial term of the lease, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. Other good cause, after the initial term of the lease, includes but is not limited to:

- Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.
- Business or economic reason for regaining possession
- Owner’s desire to repossess the unit for personal use
- Tenant’s refusal to accept offer of a new lease

The owner must give ninety (90) days written notice of termination and must have good cause to terminate the tenancy during the first year. The owner’s notice must state the reason for termination. If after the initial term of the lease, the owner may terminate tenancy without cause. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint under State or local law to commence an eviction action.

During the initial term, the Housing Authority requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the Housing Authority’s decision regarding termination of assistance.

Housing Assistance Payments (HAP) are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the Housing Authority must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The Housing Authority will continue housing assistance payments until the family moves or is evicted from the unit.

If the action is finalized in court, the owner must provide the Housing Authority with the documentation, including notice of the lock-out date.

The Housing Authority must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the Housing Authority, the owner certifies that

the tenant is still in the unit, the rent is reasonable and they are in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the Housing Authority has no other grounds for termination of assistance, the Housing Authority may issue a new voucher so that the family can move with continued assistance.

#### **Evidence of Criminal Activity [24 CFR 982.310]**

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.

#### **Nondiscrimination limitation and protection for victims of domestic violence, dating violence, sexual assault, or stalking**

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions of 24 CFR 5.105, and with the provisions for protection of victims of domestic violence, dating violence, sexual assault, or stalking in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

#### **Owner Discretion [24 CFR 982.310]**

In deciding whether to terminate tenancy because of criminal activity by members of the family, the owner has the discretion to consider all of the circumstances in each case, including the seriousness of the offending action. The owner may use discretion in reviewing the extent of participation or culpability of individual family members. The owner may also consider the tenant's personal attempts to mitigate the offending action and whether there is a demand for assisted housing by families who will abide by the lease.

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the family member:

- Is no longer engaging in the illegal drug use or alcohol abuse
- Has successfully completed a supervised drug or alcohol rehab program
- Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three above.

The owner may impose, as a condition of continued tenancy for other family members, a requirement that family members who participated in or were culpable for the action or failure must not reside in the unit. Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

### **D. TERMINATION OF TENANCY BY THE OWNER: FORECLOSURE**

**The Protecting Tenants at Foreclosure Act (PTFA)** is a recently enacted law that amends the HAP Contract by requiring that each HAP contract include additional requirements on the owner and shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of

applicable Federal, State, or local law, or for other good cause such as:

In the case of an owner who is an immediate successor in interest pursuant to foreclosure (during the term of the lease) and is vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the new owner if the owner:

- *Will occupy the unit as a primary residence; and*
- *Has provided the tenant a notice to vacate at least ninety (90) days before the effective date of such notice.*

Foreclosed properties where Housing Authority voucher recipients reside must comply with Sections 702 and 703 of the PTFA. If the immediate successor-in-interest or new owner will use the unit as a primary residence, the lease can be terminated effective on the date of the sale, however, the tenant is still entitled to a minimum of ninety (90) days' notice to vacate.

**E. TERMINATION OF THE CONTRACT BY HOUSING AUTHORITY  
[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]**

The term of the HAP contract terminates when the lease terminates, when the Housing Authority terminates program assistance for the family, and when the owner has breached the HAP contract (see Chapter 16, "Owner Disapproval and Restriction" of this Administrative Plan).

The Housing Authority will also terminate the contract if:

- The family is in violation of any of their family obligations.
- The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
- The contract will terminate automatically if one hundred eighty (180) days have passed since the last housing assistance payment to the owner.
- The single family member is deceased.
- Funding is no longer available under the Annual Contributions Contract (ACC).

If the Housing Authority determines that the necessary action to reduce HAP costs within the funding level is to terminate HAP contracts, it may take action to terminate the HAP contracts based on one or more of the following criteria:

- Households with a zero (\$0) HAP Contract starting with the families closest to the 180 days
- Households with a current HAP Contract less than \$100 per month
- Households whose participants have violated program requirements as evidenced by repayment agreements or signed counseling documents

- HAP contracts with gross rents that exceed the new payment standards and offer landlords new contracts under the current subsidy standards and payment standards
- Households on the program the longest with the lowest HAP

Elderly and disabled families will be excluded from the criteria referenced above for terminating HAP Contracts due to insufficient funding.

### **Notice of Termination**

When the Housing Authority terminates the HAP Contract under the violation of HQS space standards, the Housing Authority will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Housing Authority gives such notice to the owner.

# Chapter 15

## DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.903, 5.905, 982.54, 24 CFR 982.552, 982.553]

### INTRODUCTION

**T**he Housing Authority may deny or terminate assistance for a family because of the family's action or failure to act. The Housing Authority will provide families with a written description of the family obligations under the program, the grounds under which the Housing Authority can deny or terminate assistance, and the Housing Authority's informal hearing procedures. This chapter describes when the Housing Authority is required to deny or terminate assistance, and the Housing Authority's policies for the denial of assistance and the grounds for termination of assistance under an outstanding existing HAP contract.

**A. FAMILY OBLIGATIONS [24 CFR 982.551]**

1. The family must supply any information that the Housing Authority 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 982.551). “Information” includes any requested certification, release or other documentation.
2. The family must supply any information requested by the Housing Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers (in accordance with 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.
4. All information supplied by the family must be true and complete.
5. The family is responsible for an HQS breach caused by the family in accordance with 24 CFR 982.404(b).
6. The family must allow the Housing Authority to inspect the unit at reasonable times and after reasonable notice.
7. The family may not commit any serious or repeated violations of the lease.

Under 24 CFR 5.2005(c), an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated lease violation by the victim, or threatened victim, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

8. The family must notify the owner and, at the same time, notify the Housing Authority before the family moves out of the unit or terminates the lease upon notice to the owner.
9. The family must promptly give the Housing Authority a copy of any owner eviction notice.
10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
11. The composition of the assisted family residing in the unit must be approved by the Housing Authority. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request Housing Authority approval to add any other family member as an occupant of the unit.

The Housing Authority may approve additional family members in the following cases:

- The spouse or partner of the Head of Household (HOH). For a spouse, a

marriage license must be provided at the time request.

- The minor children of the approved spouse or approved domestic partner of the HOH.
  - The disabled elderly parent(s) or grandparent(s) of the HOH, approved spouse or approved domestic partner.
12. The family must promptly notify the Housing Authority if any family member no longer resides in the unit.
  13. If the Housing Authority has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or Housing Authority approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
  14. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
  15. The family must not sublease or let the unit.
  16. The family must not assign the lease or transfer the unit.
  17. The family must supply any information or certification requested by the Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Housing Authority requested information or certification for the purpose of family absences. The family must cooperate with the Housing Authority for this purpose. The family must promptly notify the Housing Authority of absence from the unit.
  18. The family must not own or have any interest in the unit except families participating in the Homeownership Option Program (HOP).
  19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing programs.
  20. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
  21. The household members may not engage in drug-related criminal activity or other violent 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.

Under 24 CFR 5.2005(b)(2), 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 tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the tenant, as defined in 24 CFR 5.2003, is the victim



22. An assisted family, or members of the family, may not receive Housing Choice Voucher tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.
23. The members of the family must not engage in threatening, abusive, or violent behavior toward Housing Authority personnel.

**B. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.552, 982.553]**

If denial or termination is based upon behavior resulting from a disability, the Housing Authority will delay the denial or termination in order to determine if there is an accommodation, which would negate the behavior resulting from the disability.

**Form of Denial/Termination**

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the Housing Authority 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

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 existing HAP contract
- Refusing to process or provide assistance under portability procedures

**Mandatory Denial of Assistance [24 CFR 982.54(d), 982.552(b), 982.553(a), and 982.553(b)]**

The Housing Authority must deny assistance to applicants:

- If any member of the family fails to sign and submit HUD or Housing Authority required consent forms for obtaining information in accordance with 24 CFR Part 5, Subparts B and F.
- If no member of the family is a U.S. citizen or eligible immigrant (see “Procedures for Non-Citizens” in this chapter).
- If any member of the family has been evicted from federally assisted housing for drug-related criminal activity, the Housing Authority must deny admission for five (5) years after the eviction occurred, unless the household member completed an approved, supervised drug rehabilitation program or the circumstances for the eviction no longer exist.
- If any member of the family is currently engaging in illegal use of a drug or the Housing Authority determines that the use or pattern of use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

- If any member of the family's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- If any member of the family has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program (see "Denial of Assistance for Sex Offenders" later in this chapter).

**Mandatory Termination of Assistance [24 CFR 982.54(d), 982.552(b), 982.553(a), and 982.553(b)]**

The Housing Authority must terminate assistance for participants:

- If any member of the family fails to sign and submit HUD or Housing Authority required consent forms for obtaining information in accordance with 24 CFR Part 5, Subparts B and F.
- If no member of the family is a U.S. citizen or eligible immigrant (see "Procedures for Non-Citizens" in this chapter).
- If any member of the family is currently engaging in illegal use of a drug or the Housing Authority determines that the use or pattern of use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- If any member of the family's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- If the family is under contract and one hundred eighty (180) days have elapsed since the Housing Authority's last housing assistance payment was made (see Chapter 14, "Contract Terminations" of this Administrative Plan).
- If the family is evicted from housing assisted under the program for serious and repeated violations of the lease.
- If any member of the family is or has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program (see "Denial of Assistance for Sex Offenders" later in this chapter).
- If any member of the family does not meet the applicable Social Security number SSN disclosure, documentation and verification requirements. This rule does not apply to mixed families who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families.

### **Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]**

The Housing Authority will deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

- The family violates any family obligation under the program as listed in 24 CFR 982.551.
- Any member of the family has ever been evicted from public housing in the last five (5) years.
- If any Housing Authority has ever terminated assistance under the program for any member of the family.
- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
- The family currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with the Housing Choice Voucher Program or public housing assistance under the 1937 Act.
- The family has not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, or other amounts owed by the family under the lease.
- The family breaches an agreement with a Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority. The Housing Authority at its discretion may offer the family the opportunity to enter into a repayment agreement. The Housing Authority will prescribe the terms of the agreement (see Chapter 18, “Owner or Family Debts to the Housing Authority” of this Administrative Plan).
- The family participating in a Family Self-Sufficiency (FSS) program fails to comply, without good cause, with the family’s FSS Contract of Participation (COP).
- The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel. Abusive or violent behavior towards Housing Authority personnel includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language written or oral that is customarily used to insult or intimidate, may be cause for termination or denial.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.

- If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents (see “Family Obligations” in this chapter).
- Crime by any family member, such as:

- Fraud, bribery or other corrupt or criminal act in connection with any Federal housing program.
- Drug-related criminal activity (as defined by law).
- Violent criminal activity (see Section C, “Drug Related and Violent Criminal Activity” in this chapter).
- Criminal use of physical force against person or property.
- Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, persons residing in the vicinity, Housing Authority employees/contractors, the owner, or property management staff.
- If the Housing Authority determines that any household member is engaging in or has engaged in drug-related criminal activity while participating in the Housing Choice Voucher program, within the past five (5) years, the Housing Authority may terminate assistance.
- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program.
- If the family violates the lease by engaging in drug-related or violent criminal activity, the Housing Authority may terminate assistance.
- If the Housing Authority determines that a member of the household is fleeing to avoid prosecution, or custody or confinement after conviction, that is a felony under the laws of the place from which the individual flees, the Housing Authority will terminate assistance.
- If the Housing Authority determines that a member of the household is violating a condition of probation or parole imposed under Federal or State law, the Housing Authority will terminate assistance.
- In appropriate cases, the Housing Authority may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the Housing Authority may consider individual circumstances upon the advice of Juvenile Court officials.
- Assistance restrictions are imposed on students enrolled in an institution of higher education (refer to Chapter 2, “Eligibility for Admission” of this Administrative Plan).

The Housing Authority must find elements of crime covered by civil standards and with a preponderance of evidence. The Housing Authority is not required to show proof of crime beyond a reasonable doubt.

### **Explanations and Terms**

The term “promptly” when used with the family obligations always means “within thirty (30) days.”

Denial or termination of assistance is always optional except where this Administrative Plan or the regulations state otherwise.

### **Housing Authority Discretion [24 CFR 982.552(c)]**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the Housing Authority has discretion to consider all of the circumstances in each case, including the seriousness of the case. The Housing Authority will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The Housing Authority may also review the family's more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The Housing Authority may permit the other members of the family to continue in the program.

The Housing Authority will apply regulations identified in "Protection for Victims of Domestic Violence, Dating Violence, or Stalking" in all applicable cases that involve an incidence of, or criminal activity related to, domestic violence, dating violence, or stalking.

### **Housing Quality Standards (HQS) Breach**

The Inspector and/or the Director of Rental Assistance will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Director of Rental Assistance or his or her designee.

### **Lease Violations**

One or more of the following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:

- If the owner terminates tenancy through court action for serious or repeated violations of the lease.
- If the owner notified the family of termination of assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the Housing Authority determines that the cause is a serious or repeated violation of the lease based on available evidence.
- If there are police reports, neighborhood complaints, or other third party information, and the Housing Authority has verified the information.

### **Proposed Additions to the Family**

The Housing Authority will deny a family's request to add additional family members who are:

- Persons who have been evicted from public assisted housing.
- Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.

- Persons who have been part of a family whose assistance has been terminated under the voucher program.
- Persons who commit drug-related criminal activity or violent criminal activity.
- Persons who are subject to a lifetime registration requirement under a State sex offender registration program.
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
- Persons who currently owe rent or other amounts to the Housing Authority or to another Housing Authority in connection with the Housing Choice Voucher Program or public housing assistance under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward Housing Authority personnel.

### **Family Member Moves Out**

Families are required to notify the Housing Authority if any family member leaves the assisted household. When the family notifies the Housing Authority, they must furnish the following information:

- The date the family member moved out
- The new address, if known, of the family member
- A statement as to the length of time the family member will be out of the household.
- Persons who do not meet the Housing Authority's definition of family.

### **Limitation on Profit-making Activity in Unit**

If the Housing Authority determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the Housing Authority determines that the business is not legal, it will be considered a program violation.

### **Interest in Unit**

The owner may not reside in the assisted unit regardless of whether they are a member of the assisted family, unless the family owns the mobile home and rents the pad, excluding shared housing, unless the client is a participant in the Homeownership Option Program.

The owner of a shared housing unit may reside in the unit. A resident owner may enter into a Housing Assistance Payment (HAP) contract with the Housing Authority. However, housing assistance may not be paid on behalf of an owner. An assisted person may not be related by blood or marriage to a resident owner.

### **Fraud**

In each case, the Housing Authority will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

In the event of false citizenship claims, see "Procedures for Non-citizens" in this Chapter.

### **C. DRUG-RELATED AND VIOLENT CRIMINAL ACTIVITY**

“Drug” is a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

“Drug-related criminal activity” is the illegal manufacture, sale, distribution, use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. Drug-related criminal activity means on or off the premises, not just on or near the premises.

“Violent criminal activity” includes 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, and the activity is being engaged in by any family member.

Definitions for other terms used in this chapter are provided in the Glossary.

#### **Ineligibility for Drug-Related or Violent Activity**

In an effort to prevent future drug-related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the Housing Authority will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older.

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Housing Choice Voucher Program for a five (5) year period beginning on the date of such eviction, unless the household member completed an approved, supervised drug rehabilitation program or the circumstances for the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person is deceased or incarcerated.

Applicants may be denied assistance if they have been arrested and convicted of a drug-related or violent crime, or evicted from federally assisted housing due to drug-related or violent criminal activity within the last five (5) years prior to the date of the certification interview.

Participants may be terminated who have been arrested and convicted of a drug-related or violent crime, and/or evicted from federally assisted housing due to drug-related or violent criminal activity within the last five (5) years prior to the date of the notice to terminate assistance, or whose activities have created a disturbance in the building or neighborhood.

#### **Screening Out Illegal Drug Users and Alcohol Abusers**

The Housing Authority will deny participation in the program to applicants in cases where the Housing Authority determines there is reasonable cause to believe that the person is illegally using drugs or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This includes cases where the Housing Authority determines that there is a pattern of illegal use of a drug, or pattern of alcohol abuse.

The Housing Authority will consider the use of a drug or alcohol to be a pattern if there is more than one incident documented and verified by the Housing Authority during the previous six (6) months.

### **Denial of Assistance for Sex Offenders**

The Housing Authority will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the Housing Authority will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement, to include but not limited to the use of the Dru Sjodin National Sex Offender database located at [www.nsopw.gov](http://www.nsopw.gov).

### **Confidentiality of Criminal Records**

The Housing Authority will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

### **Required Evidence**

“Preponderance of evidence” is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence is not to be determined by the number of witnesses, but by the greater weight of all evidence.

“Credible evidence” may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants where illegal drugs were found or illegal activity discovered.

The Housing Authority may pursue fact-finding efforts as needed to obtain credible evidence.

The Housing Authority may terminate assistance for criminal activity by a household member under this section if the Housing Authority has determined that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

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 Housing Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Housing Authority 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.

### **Notice of Termination of Assistance**

In any case where the Housing Authority decides to terminate assistance to the family, the Housing



Authority must give the family written notice which states:

- The reason(s) for the proposed termination.
- A copy of the criminal record information, if applicable.
- The effective date of the proposed termination.
- The family's right, if they disagree, to request an informal hearing to be held before termination of assistance.
- The date by which a request for an informal hearing must be received by the Housing Authority.

If the Housing Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record with a copy of the criminal record or type of reports used to propose termination of assistance.

If the Notice of Proposed Termination letter is returned to the Housing Authority with a forwarding address, the Leasing Specialist will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

The Housing Authority will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

### **Notice of Denial of Assistance**

In any case where the Housing Authority decides to deny eligibility of assistance to the family, the Housing Authority must give the family written notice which states:

- The reason(s) for the denial of eligibility.
- A copy of the criminal record information, if applicable.
- The effective date of the denial of eligibility.
- The family's right, if they disagree, to request an informal review.
- The date by which a request for an informal review must be received by the Housing Authority.

If the Housing Authority proposes to deny eligibility of assistance for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record with a copy of the criminal record or list of reports used to deny eligibility.

If the Notice of Proposed Ineligibility letter is returned to the Housing Authority with a forwarding address, the Leasing Specialist will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

**D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]**

**Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The Housing Authority must offer the family an opportunity for a hearing (see Chapter 2, "Eligibility for Admission" of this Administrative Plan).

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

**False or Incomplete Information**

When the Housing Authority has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the Housing Authority will give them an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

The Housing Authority will then verify eligible status and deny, terminate, or prorate as applicable.

**Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the United States Citizenship and Immigration Services (USCIS) primary and secondary verifications failed to document the status, the family may make an appeal to the USCIS and request a hearing with the Housing Authority either after the USCIS appeal or in lieu of the USCIS appeal.

After the Housing Authority has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

**E. ZERO (\$0) ASSISTANCE TENANTS [24 CFR 982.455(a)]**

The family may remain in the unit at \$0 assistance for up to one hundred eighty (180) days after the last HAP. If the family is still in the unit after one hundred eighty (180) days, the assistance will be terminated. If, within the one hundred eighty (180) day timeframe, an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a housing assistance payment, the Housing Authority will resume assistance payments for the family.

In order for a family to move to another unit during the one hundred eighty (180) days, the rent for the new unit would have to be high enough to necessitate a HAP.

**F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]**

If the family has misrepresented any facts that caused the Housing Authority to overpay assistance, the Housing Authority may choose not to terminate and may offer to continue assistance provided that the family executes a repayment agreement and makes payments in accordance with the agreement or reimburses the Housing Authority in full.

**G. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552 (c)]**

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the Housing Authority will deny or terminate assistance.

In making this determination, the Housing Authority will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

**H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]**

It is a family obligation to supply information, documentation, and certification as needed for the Housing Authority to fulfill its responsibilities. The Housing Authority schedules appointments and sets deadlines in order to obtain the required information. The obligations also require that the family allows the Housing Authority to inspect the unit, and appointments are scheduled for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the Housing Authority, may be sent a Notice of Proposed Termination of Assistance for failure to provide required information, or for failure to allow the Housing Authority to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Administrative Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for admissions
- Verification procedures
- Voucher issuance and briefings
- Housing Quality Standards inspections
- Recertifications
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Any other emergency not including incarceration

**Procedure when Appointments are missed or Information is not provided**

For most purposes in this Administrative Plan, the family will be given two (2) opportunities before being issued a Notice of Proposed Termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice may be rescinded if the family offers to cure and the family does not have a history of non-compliance.

# Chapter 16

## OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

### INTRODUCTION

It is the policy of the Housing Authority to recruit owners to participate in the voucher program. The Housing Authority will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the Housing Authority. The regulations define when the Housing Authority must disallow an owner participation in the program, and they provide the Housing Authority discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

**A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]**

The owner does not have the right to participate in the program. For purposes of this section, “owner” includes a principal or other interested party. The Housing Authority will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the Housing Authority that the owner has been disbarred, suspended, or subject to a limited denial of participation.
- HUD has informed the Housing Authority that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.
- HUD has informed the Housing Authority that a court or administrative agency has determined that the owner violated the Fair Housing Act or other Federal equal opportunity requirements.
- Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The Housing Authority will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.
- In cases where the owner and tenant bear the same last name, the Housing Authority may at its discretion, require the family and or owner to certify whether they are related to each other in any way.
- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.
- The owner has engaged in drug-related criminal activity or any violent criminal activity.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Housing Choice Voucher assistance or leased under any other Federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has not paid State or local real estate taxes, fines or assessments.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under the Housing Choice Voucher Program or any other Federally assisted housing program

for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents.
- Threatens the health or safety of owners, other residents, employees of the Housing Authority, or other persons engaged in management of the housing.
- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises.
- Engages in drug-related criminal activity or violent criminal activity.

**B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]**

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the Housing Authority will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The Housing Authority may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the Housing Authority will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violation (see Chapter 17, "Program Integrity Addendum" for guidance as to how owner fraud will be handled).

**C. CHANGE IN OWNERSHIP**

A change in ownership may require execution of a new contract.

The Housing Authority may approve the assignment of the HAP contract at the previous owner's request. The Housing Authority may approve the assignment, since they are a party to the contract. The Housing Authority may deny approval of assignment of the contract, for any of the reasons listed in "Disapproval of Owner" in this chapter.

The Housing Authority will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the recorded deed or other document showing the transfer of title and the Federal Tax Identification number or Social Security number of the new owner.

If the new owner does not want an assignment of the contract, the Housing Authority will terminate the HAP contract with the old owner, since they are no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

# Chapter 17

## PROGRAM INTEGRITY

[24 CFR 792.101 to 792.204, 982.54]

### INTRODUCTION

**T**his chapter outlines the Housing Authority's policies for the prevention, detection and investigation of program abuse and fraud. HUD conservatively estimates that 600 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement. The Housing Authority is committed to ensuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income eligible families so that program integrity can be maintained.

The Housing Authority will take all steps necessary to prevent fraud, waste and mismanagement so that program resources are utilized judiciously.

## **A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstance will the Housing Authority undertake an inquiry or an audit of a participating family arbitrarily. The Housing Authority's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. Housing Authority staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the Housing Authority has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and when indicators of possible abuse come to the Housing Authority's attention, to investigate such claims.

The Housing Authority will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

- **Referrals, Complaints or Tips.** The Housing Authority will follow up on referrals from other agencies, companies or persons which are received by mail, telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rule. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.
- **Internal File Review.** A follow-up will be made if Housing Authority staff discovers (as a function of a certification, recertification, an interim redetermination, or a quality control review) information or facts which conflict with previous file data, the Housing Authority's knowledge of the family, or is discrepant with statements made by the family.
- **Verification of Documentation.** A follow-up will be made if the Housing Authority receives independent verification or documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, or reports from other agencies).

## **B. STEPS THE HOUSING AUTHORITY WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

The Housing Authority will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

- **Things You Should Know (HUD-1140-OIG).** This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the Housing Authority's expectations for cooperation and compliance.
- **Briefing Session.** Mandatory orientation sessions will be conducted by the Housing Authority staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Housing Choice Voucher" to confirm that all rules and pertinent regulations were explained to them.



- Review and Explanation of Forms. Staff will explain all required forms and review the contents of all recertification documents prior to signature.

The Housing Authority will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements as follows.

**C. STEPS THE HOUSING AUTHORITY WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

The Housing Authority staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

- **Quality Control File Reviews.** Prior to initial certification, and at the completion of all subsequent recertifications, each participant file will be reviewed. Such reviews shall include, but are not limited to:
  - Assurance that verification of all income and deductions is present.
  - Changes in reported Social Security Numbers or dates of birth.
  - Authenticity of file documents.
  - Ratio between reported income and expenditures.
  - Review of signatures for consistency with previously signed file documents.
  - All forms are correctly dated and signed.
- **Observation.** The Housing Authority will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file.
- **Public Records** may be reviewed by Housing Authority staff.
- **State Wage Data Record Keepers.** Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made in order to detect unreported wages or unemployment compensation benefits.
- **Enterprise Income Verification (EIV) system.** The Housing Authority will verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The Housing Authority has established a procedure for EIV use.
- **Credit Bureau Inquiries.** Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:
  - When an allegation is received by the Housing Authority wherein unreported income sources are disclosed.
  - When a participant's expenditures exceed their reported income and no plausible explanation is given.

**D. THE HOUSING AUTHORITY’S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

The Housing Authority staff will encourage all participating families to report suspected abuse. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant’s file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up.

The Housing Authority will not follow up on allegations which are vague or otherwise nonspecific. Only allegations which contain one or more independently verifiable facts will be reviewed.

**File Review**

An internal file review will be conducted to determine:

- If the subject of the allegation is a current voucher holder of the Housing Authority and if so, to determine whether or not the information reported has been previously disclosed by the family.
- It will then be determined if the Housing Authority is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

**Conclusion of Preliminary Review**

If at the conclusion of the preliminary file review, there are facts contained in the allegation which conflict with file data, and the facts are independently verifiable, the Leasing Specialist will initiate an investigation to determine if the allegation is true or false.

**E. OVERPAYMENT TO OWNERS**

If the Housing Authority determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the Housing Authority may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract. If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the Housing Authority will:

- Require the owner to pay the amount in full within thirty (30) days
- Pursue collections through a collection agency
- Restrict the owner from future participation

**F. HOW THE HOUSING AUTHORITY WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If the Housing Authority determines that an allegation or referral warrants a follow-up, the Housing Authority will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the Housing Authority will secure the written authorization from the program participant for the release of information.

- Employment Income Verification (EIV).

- Credit Bureau Inquiries (CBI). In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.
- Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.
- Other Agencies. Investigators, case workers or representatives of other benefit agencies may be contacted.
- Public Records. If relevant, the Housing Authority will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.
- Interviews with Head of Household or Family Members. The Housing Authority will discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment at the Housing Authority's central office. A high standard of courtesy and professionalism will be maintained by the Housing Authority staff person who conducts such interviews. Unprofessional conduct will not be tolerated. If possible, an additional staff person will attend such interviews.

**G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HOUSING AUTHORITY**

Documents and other evidence obtained by the Housing Authority during the course of an investigation will be considered “work product” and will either be kept in the participant’s file, or in a separate work file. Such cases under review will not be discussed among Housing Authority staff unless they are involved in the process, or have information which may assist in the investigation.

**H. CONCLUSION OF THE HOUSING AUTHORITY’S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the Director of Rental Assistance or his or her designee. It will be established if a violation has occurred, not occurred, or is inconclusive.

The following will be taken into consideration:

- The type of violation (procedural noncompliance, fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family.
- If the family is eligible for continued occupancy.

Once a program violation has been documented, the Housing Authority will propose the most appropriate remedy based upon the type and severity of the violation.

**Procedural Noncompliance**

This category applies when the family “fails to” observe a procedure or requirement of the Housing

Authority, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family. Examples of noncompliance violations are:

- Failure to appear at a pre-scheduled appointment
- Failure to return verification in time period specified by the Housing Authority

Warning Notice to the Family: In such cases, a notice will be sent to the family which contains the following:

- A description of the noncompliance and the procedure, policy or obligation which was violated;
- The date by which the violation must be corrected, or the procedure complied with;
- The action which will be taken by the Housing Authority if the procedure or obligation is not complied with by the date specified by the Housing Authority; and
- The consequences of repeated (similar) violations

### **Procedural Noncompliance - Overpaid Assistance**

When the family owes money to the Housing Authority for failure to report changes in income or assets, the Housing Authority will issue a Notice of Proposed Termination letter. This notice will contain the following:

- A description of the violation.
- The right to disagree and to request an informal hearing within ten (10) business days.
- Instructions for the request of such hearing

The hearing officer will meet with them to discuss and explain the family obligation or program rule which was violated. The hearing officer will complete a Hearing Summary, mail one copy to the family and retain a copy in the family's file.

Participant Fails to Comply with Housing Authority's Notice: If the participant fails to comply with the Housing Authority's notice, and a family obligation has been violated, the Housing Authority will follow through with termination of assistance.

### **Intentional Misrepresentations**

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact, which results (or would have resulted) in an overpayment of housing assistance by the Housing Authority, the Housing Authority will evaluate whether or not:

- The participant had knowledge that his/her actions were wrong, and
- The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong: This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, Housing Choice Voucher, and personal declaration(s) are adequate to

establish knowledge of wrong-doing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the participant to Housing Authority staff or others of the misrepresentation, illegal action or omission.
- That the act was done repeatedly.
- If a false name or Social Security number was used.
- That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).
- That the participant falsified, forged or altered documents.
- That the participant uttered and certified to statements at an interim redetermination which were later independently verified to be false.

### **Dispositions of Cases Involving Misrepresentations**

In all cases of misrepresentations involving efforts to recover monies owed, the Housing Authority may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution: If the Housing Authority has established criminal intent, and the case meets the criteria for prosecution, the Housing Authority may refer the case to the local State or District Attorney, notify HUD's Office of the Inspector General (OIG), and terminate rental assistance.

Administrative Remedies: The Housing Authority may terminate assistance and demand payment of restitution in full.

A secondary purpose of the informal hearing is to assist the Housing Authority in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the Housing Authority will consider:

- The duration of the violation and number of false statements
- The family's ability to understand the rules
- The family's willingness to cooperate, and to accept responsibility for their actions
- The amount of money involved
- The family's past history
- Whether or not criminal intent has been established
- The number of false statements

## **I. CODE OF CONDUCT**

The Housing Authority has established Standards of Conduct for its employees and members of its Board of Commissioners. This Code of Ethics and Standards of Conduct was approved by the Board of Commissioners on February 16, 2006. These Standards of Conduct are designed to

assure the utmost in public trust and confidence in the policies and practices of the Housing Authority. Because of its status as an independent public entity, the Housing Authority recognizes its responsibility to conduct all business in a manner above reproach or censure. The Code of Ethics and Standards of Conduct will describe in detail the standards by which members of the Board of Commissioners and Housing Authority employees are to be held accountable.

No direct or indirect personal inducement of Housing Authority employees is allowed. This includes the giving of gifts, money, tickets or any item or service having value.

**Ethical Standards for Employees**

No employee of the Housing Authority shall have any employment, or engage in any business or commercial transaction, or engage in any professional activity, or incur any obligation in which directly or indirectly he or she would have an interest that would impair his or her independence of judgment or action in the performance of his or her official duties or that would be in conflict with the performance of his or her official duties.

No employee shall have or enter into any contract with any person who has or enters into a contract with the Housing Authority unless:

- a. The contract between the person and the Housing Authority is awarded pursuant to competitive bidding procedures and/or purchasing policies as outlined in regulations promulgated by the U.S. Department of Housing and Urban Development (HUD), state law, or the Housing Authority of the County of San Joaquin's Procurement Policy; or
- b. The contract between the person and the Housing Authority is one in which the Housing Authority employee has no interest, has no duties or responsibilities, or if the contract with the person is one which the Housing Authority employee entered into prior to becoming an employee.

There shall be no preferential treatment given by an employee of the Housing Authority acting in performance of his or her official duties to any person, agency or organization. Employees, Agents and Commissioners will be required to disclose whether he/she has any relationship or interest with vendors of the Housing Authority.

No Housing Authority employee shall solicit any gift or consideration of any kind, nor shall any Housing Authority employee accept or receive a gift having value in excess of \$25 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Housing Authority.

No Housing Authority employee shall disclose without proper authorization non-public information or records concerning any aspects of the operation of the Housing Authority, nor shall he or she use such information to the advantage or benefit of himself, herself, or any other person. This shall include records maintained on enrollees of the Housing Authority, for whom a properly executed release of information form shall be obtained and kept in the client file. The release of any information relative to enrollees of the Housing Authority shall be done pursuant to government regulations allowing the release of information among government agencies or agencies receiving government subsidy, shall be done following prescribed methods of requesting and transmitting such information, and shall be done with full knowledge of the enrollee except in those cases where through action of law the enrollee's knowledge is not required.

No Housing Authority employee shall have an interest in a contract between any person and the Housing Authority, except that this provision shall not apply if the contract was entered into prior to the employee's hire by the Housing Authority.

**J. MANDATED USE OF THE ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM [24 CFR 5.233]**

The EIV System is a web-based application, which provides the Housing Authority with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and Social Security number (SSN)) reported on the form HUD-50058.

The Housing Authority is required to use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The Housing Authority has established a procedure for EIV use.

**K. ENTERPRISE INCOME VERIFICATION (EIV) USER'S RESPONSIBILITIES**

The EIV user's responsibilities include the following:

- Mandatory security awareness training at least annually
- Complete and sign Rules of Behavior and User Agreement
- Avoid leaving EIV information on the computer screen unattended
- EIV data generated from the printer must be retrieved immediately and shall not be left lying unattended
- Each user is required to have his or her own User ID and password
- Maintain the security of user accounts by not disclosing own password
- Inform the Security Officer when EIV access is no longer needed
- Report to the Director of Rental Assistance or the Security Officer and/or the HUD Security Officer immediately regarding any suspected violation or breach of system security

Record Keeping and Control

The following HUD forms shall be used to ensure the security of EIV data:

- Housing Authority's EIV Access Authorization Form
- Rules of Behavior and User Agreement
- Security Awareness Training Attendance Sheet

**L. THE CONSEQUENCES OF RULE VIOLATIONS**

There shall be an established Ethics Review Committee of the Authority of the County of San Joaquin.

The purpose of the Committee shall be to review and render decisions on any matters involving ethical conduct, or breach of ethical conduct, by employees, vendors, or commissioners.

The Committee is empowered by the Board of Commissioners to:

- a. Call witnesses and receive depositions in the performance of its duties.
- b. Call for provision of appropriate records, files or tapes relative to the performance of its duties.
- c. Review any records maintained by the Housing Authority, except those records that are considered confidential or personal. However, confidential records may be examined upon execution of a proper release by the subject person.

In performing its duties, the Committee may:

- a. Issue rules and regulations consistent with and to clarify the Code of Ethics and Standards of Conduct.
- b. Review any questions concerning alleged or suspected infractions of the Code of Ethics and Standards of Conduct and make recommendations to the Board of Commissioners or Executive Director for further or final actions.
- c. Require financial disclosure or disclosure of any other pertinent information by employees, vendors, or commissioners.
- d. Oversee compliance by the Authority with the Code of Ethics and Standards of Conduct and any other applicable regulations involving ethics.

The Committee shall be composed of three (3) members and one (1) alternate:

- One (1) Board of Commissioners member;
- One (1) Authority employee; and
- One (1) neutral third party

The alternate member of the panel shall be a party versed in legal/ethical issues, e.g., an attorney not currently serving as counsel to the Authority or an academic authority on ethical issues.

The members of the Committee shall be appointed in the following manner:

- The representative of the Board of Commissioners and the neutral third party shall be selected by vote of the Board of Commissioners.
- The Authority employee representative and alternate shall be selected by the Executive Director.

Each member of the Committee will serve a three (3) year term. The terms may be renewed once. In no case will a person serve more than two (2) consecutive three (3) year terms.

There shall be a chair of the Committee, elected by the members of the Committee. The chair



shall serve for one (1) year and may not serve more than two (2) consecutive terms. The Executive Director of the Authority shall serve as a non-voting Secretary of the Committee.

Voting by the Committee shall be by simple majority, with the Chair voting as any other member. The alternate member of the Committee may attend all meetings of the Committee. In case of a conflict of interest by a committee member, the alternate member will assume the role as a voting member of the Committee. The alternate may at any and all time's voice opinions regarding the deliberations of the Committee.

The Committee shall, upon receiving a written request from either the Board of Commissioners or any individual associated with the Authority, respond in writing within sixty (60) days after receipt of the request, unless the Committee determines that additional time is required. If additional time is required, it shall inform the requestor of the approximate time it will be able to render a response.

The Committee shall make reports and recommendations for action to the Board of Commissioners. If the Board finds a recommended action is properly within the purview of the Executive Director or his or her designee, it shall delegate the matter without further Board action.

The legal counsel of the Authority may be involved in the deliberations of the Committee, but he or she has no vote and cannot serve as the alternate committee member.

# Chapter 18

## OWNER OR FAMILY DEBTS TO THE HOUSING AUTHORITY

[24 CFR 982.552]

### INTRODUCTION

This chapter describes the Housing Authority's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the Housing Authority's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the Housing Authority's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the Housing Authority, the Housing Authority will make every effort to collect it. The Housing Authority will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Payment agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Income tax set-off programs
- Referral to Inspector General's Office

**A. PAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c) (v-vii)]**

A payment agreement as used in this Administrative Plan is a document entered into between the Housing Authority and a person who owes a debt to the Housing Authority. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the Housing Authority upon default of the agreement.

The Housing Authority will prescribe the terms of the payment agreement, including determining whether to enter into a payment agreement with the family based on the circumstances surrounding the debt to the Housing Authority.

There are some circumstances in which the Housing Authority will not enter into a payment agreement. They are:

- If the family already has a payment agreement in place.
- If the Housing Authority determines that the family committed program fraud.

The maximum length of time the Housing Authority will enter into a payment agreement with a family is twelve (12) to twenty-four (24) months, depending on the family's circumstances.

The maximum amount for which the Housing Authority will enter into a payment agreement with a family is \$5,000. The minimum monthly amount of monthly payment for any payment agreement is \$10. The Housing Authority will review the total repayment amount and the family's ability to pay to determine the length of time allowed for repayment.

If the family wishes to relocate within San Joaquin County, the tenant must have a history of keeping consistently current with their payments before they will be approved to move. Otherwise, they must pay off the remaining balance before they will be approved to move (for non-fraud issues). In the case of fraud, the tenant must have the balance paid off before moving.

If the family wishes to relocate outside San Joaquin County, they must first pay off any debt owed to the Housing Authority.

**Late Payments**

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the Housing Authority, the Housing Authority will:

- Require the family to pay the balance in full;
- Pursue civil collection of the balance due; or
- Terminate the housing assistance.

**Guidelines for Payment Agreements [24 CFR 982.552(b)(8)]**

The payment agreement will be executed between the Housing Authority and the head of household, spouse, co-head and all household members age 18 years of age and older.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Director of Rental Assistance or his or her designee.

The family will not be approved to move until the debt is paid in full, unless the move is the result of one of the following causes and the payment agreement is current:

- Family size exceeds the Housing Quality Standards (HQS) maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster
- Foreclosure of unit

**B. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]**

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of HCV program funds in violation of HCV program requirements.

The Housing Authority may terminate the family for program fraud, or it may allow the family to enter into a repayment agreement.

**Program Fraud**

Owners and families who owe money to the Housing Authority due to program fraud will be required to pay in accordance with the payment procedures for program fraud below.

If an owner or family owes an amount which equals or exceeds \$5,000 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the Housing Authority will refer the case for criminal prosecution.

**Payment Procedures for Program Fraud**

Families who commit program fraud or untimely reporting of increases in income will be subject to the following:

- Sign a repayment agreement as outlined in the “Guidelines for Payment Agreements” in this chapter.
- The amount of the monthly payment will be determined in accordance with the family's current income but the payment will not be less than \$10 a month.

**C. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552 (c) (v-vii)]**

Payment agreements will be executed between the Housing Authority and the head of household, spouse, co-head and all household members age 18 years old and over.

- The payment agreement must be executed by the Director of Rental Assistance or his or her designee.
- Payments may only be made by money order or cashier's check.

- The payment agreement will be in default when a payment is delinquent by the 10th calendar day of the month. A payment agreement will be considered to be in default when it is in arrears for thirty (30) days. The family's assistance may be terminated unless the Housing Authority receives the balance of the payment agreement in full within thirty (30) days of the termination notice.
- Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the designated staff.

A move may be denied until the debt is paid in full unless the move is the result of the following causes, and the payment agreement is current:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster
- Foreclosure of unit

### **Additional Monies Owed**

If the family already has a payment agreement in place and incurs an additional debt to the Housing Authority, the Housing Authority may enter into more than one payment agreement with the family, depending on their payment history.

### **D. OWNER DEBTS TO THE HOUSING AUTHORITY [24 CFR 982.453(b)]**

If the Housing Authority determines that the owner has retained Housing Assistance Payments the owner is not entitled to, the Housing Authority may reclaim the amounts from future Housing Assistance Payments owed to the owner for any units under contract.

If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the Housing Authority may:

- Require the owner to pay the amount in full within thirty (30) days.
- Enter into a payment agreement with the owner for the amount owed.
- Pursue collections through a collection agency.
- Restrict the owner from future participation.

### **E. WRITING OFF DEBTS**

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than three (3) years old.
- A determination is made that the debtor is judgment proof.
- The debtor is deceased.
- The debtor is confined to an institution indefinitely or for more than five (5) years.
- The amount is less than \$5,000 and the debtor cannot be located.

# Chapter 19

## REVIEWS, HEARINGS, COMPLAINTS AND APPEALS

### INTRODUCTION

**T**he informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the Housing Authority. This chapter describes the policies, procedures and standards to be used when families disagree with a Housing Authority decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the Housing Authority to ensure that all families have the benefit of all protections due to them under the law.

**A. COMPLAINTS TO THE HOUSING AUTHORITY**

The Housing Authority will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The Housing Authority requires that complaints other than Housing Quality Standards (HQS) violations be put in writing (HQS complaints may be reported by telephone). Complaints may also be submitted online through the Housing Authority’s website at hacsj.com.

**Complaints from Families and Owners**

Complaints received from families or owners due to the action or inaction of the Housing Authority will be referred to the Leasing Specialist. If a complaint is not resolved, it will be referred to the Compliance Supervisor. If still not resolved, it will be referred to the Director of Rental Assistance.

**Complaints from Staff**

If a staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the Compliance Supervisor. If still not resolved, it will be referred to the Director of Rental Assistance.

**Complaints from the General Public**

Complaints or referrals from persons in the community in regard to the Housing Authority, a family or an owner will be referred to the Leasing Specialist. If a complaint is not resolved, it will be referred to the Compliance Supervisor. If still not resolved, it will be referred to the Director of Rental Assistance.

**B. PREFERENCE DENIALS**

When the Housing Authority denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with Housing Authority staff to discuss the reasons for the denial and to dispute the Housing Authority's decision.

The person who conducts the meeting will be the Application’s Compliance Supervisor or his or her designee.

**C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]**

Reviews are provided for applicants who are denied assistance before the effective date of the Housing Assistance Payment (HAP) Contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the Housing Authority determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible;
- The procedure for requesting a review if the applicant does not agree with the decision; and
- The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The Housing Authority must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference.
- Listing on the Housing Authority's waiting list.
- Issuance of a voucher.
- Participation in the program.
- Assistance under portability procedures.

Informal reviews are ***not required*** for established policies and procedures and Housing Authority determinations such as:

- Discretionary administrative determinations by the Housing Authority.
- General policy issues or class grievances.
- A determination of the family unit size under the Housing Authority subsidy standards.
- Refusal to extend or suspend a voucher.
- A Housing Authority determination not to grant approval of the tenancy.
- Determination that unit is not in compliance with HQS.
- Determination that unit is not in accordance with HQS due to family size or composition.

### **Procedure for Informal Review**

A request for an informal review must be received in writing by the close of the business day, no later than ten (10) business days from the date of the Housing Authority's notification of denial of assistance. The informal review will be scheduled within ten (10) business days from the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by:

- A staff person who is at the management level or above.
- An independent contractor qualified by the Housing Authority.
- An individual from outside the Housing Authority.

The applicant will be given the option of presenting oral or written objections to the decision. Both the Housing Authority and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

The review may be conducted by mail and/or telephone if acceptable to both parties. A notice of the review findings will be provided in writing to the applicant within fourteen (14) business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **D. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]**

When the Housing Authority makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The Housing Authority will give the family prompt notice of such determinations which will include:



- The proposed action or decision of the Housing Authority.
- The date the proposed action or decision will take place.
- The family's right to an explanation of the basis for the Housing Authority's decision.
- The procedure for requesting a hearing if the family disputes the action or decision.
- The time limit for requesting the hearing.
- To whom the hearing request should be addressed.
- A copy of the Housing Authority's hearing procedures.

The Housing Authority hearing procedures will be provided to families in the briefing packet.

When terminating assistance for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.

The Housing Authority must provide participants with the opportunity for an informal hearing for decisions related to any of the following Housing Authority determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment.
- Calculation of utility allowance.
- Family unit size determination under Housing Authority subsidy standards.
- Non-citizen eligibility.
- Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

Informal hearings are ***not required*** for established policies and procedures and Housing Authority determinations such as:

- Discretionary administrative determinations by the Housing Authority.
- General policy issues or class grievances.
- Establishment of the Housing Authority schedule of utility allowances for families in the program.
- A Housing Authority determination not to approve an extension or suspension of a voucher term.
- A Housing Authority determination not to approve a unit or lease.
- A Housing Authority determination that an assisted unit is not in compliance with HQS (Housing Authority must provide hearing for family breach of HQS because that is a family obligation determination).
- A Housing Authority determination that the unit is not in accordance with HQS because of the family size.
- A Housing Authority determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

### **Notification of Hearing**

It is the Housing Authority's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the Housing Authority will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the Housing Authority receives a request for an informal hearing, a hearing shall be scheduled within fourteen (14) days. The notification of hearing will contain:

- The date and time of the hearing;
- The location where the hearing will be held;
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense;
- The right to view any documents or evidence in the possession of the Housing Authority upon which the Housing Authority based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than five (5) business days before the hearing date; and
- A notice to the family that the Housing Authority will request a copy of any documents or evidence the family will use at the hearing. Requests for such documents or evidence must be received no later than five (5) business days before the hearing date.

### **The Housing Authority's Hearing Procedures**

After a hearing date is agreed to, the family may request to reschedule only upon showing “good cause,” which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the Housing Authority within twenty-four (24) hours, excluding weekends and holidays. The Housing Authority will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

- Present written or oral objections to the Housing Authority's determination.
- Examine the documents in the file which are the basis for the Housing Authority's action, and all documents submitted to the hearing officer.
- Copy any relevant documents at their expense.
- Present any information or witnesses pertinent to the issue of the hearing
- Request that Housing Authority staff be available or present at the hearing to answer questions pertinent to the case
- Be represented by legal counsel, advocate, or other designated representative at their own expense
- If the family requests copies of documents relevant to the hearing, the Housing Authority will make the copies for the family and assess a charge of \$.25 per copy. In no case will the family be allowed to remove the file from the Housing Authority's office.

In addition to other rights contained in this chapter, the Housing Authority has a right to:

- Present evidence and any information pertinent to the issue of the hearing.
- Be notified if the family intends to be represented by legal counsel, advocate, or another party.
- Examine and copy any documents to be used by the family prior to the hearing.
- Have their attorney present.
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the hearing officer appointed by the Housing Authority who is neither the person who made or approved the decision, nor a subordinate of that person. The Housing Authority appoints hearing officers who are:

- A Housing Authority supervisor level or above.
- Managers from other Housing Authority's.
- Professional mediators or arbitrators.
- Housing Authority Management.
- An independent contractor qualified by the Housing Authority.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the hearing officer, the action of the Housing Authority shall take effect and another hearing will not be granted.

The hearing officer will determine whether the action, inaction or decision of the Housing Authority is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the Housing Authority and the family within ten (10) business days and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed; and
- The date the decision goes into effect

The Housing Authority is not bound by hearing decisions which:

- Concern matters in which the Housing Authority is not required to provide an opportunity for a hearing.
- Conflict with or contradict HUD regulations or requirements.
- Conflict with or contradict Federal, State or local laws.
- Exceed the authority of the person conducting the hearing.

The Housing Authority shall send a letter to the participant if it determines the Housing Authority is not bound by the hearing officer's determination within fourteen (14) business days. The letter shall include the Housing Authority's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

**E. HEARING AND APPEAL PROVISIONS FOR “RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS” [24 CFR PART 5, SUBPART E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the U.S. Citizenship and Immigration Services (USCIS) appeal.

Assistance to a family may not be terminated or denied while the Housing Authority hearing is pending but assistance to an applicant may be delayed pending the Housing Authority hearing.

**U.S. Citizenship and Immigration Services Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the U.S. Citizenship and Immigration Services (USCIS) and a manual search do not verify the claim, the Housing Authority notifies the applicant or participant within ten (10) days of their right to appeal to the USCIS within thirty (30) days or to request an informal hearing with the Housing Authority either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, they must give the Housing Authority a copy of the appeal and proof of mailing or the Housing Authority may proceed to deny or terminate. The time period to request an appeal may be extended by the Housing Authority for good cause.

The request for a Housing Authority hearing must be made within fourteen (14) days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within fourteen (14) days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible and there are no other eligible family members, the Housing Authority will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the Housing Authority will offer to pro-rate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent (TR) and Total Tenant Payment (TTP).

- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

**F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]**

When applicants are denied placement on the waiting list, or the Housing Authority is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

# Chapter 20

## SPECIAL HOUSING TYPES

[24 CFR 982.601]

### INTRODUCTION

**T**he Housing Authority may consider the use of special housing types in its program depending on the local need, funding availability and that the applicant/participant can demonstrate this would be the only way the family could obtain assistance.

The Housing Authority will not set aside any program funding for special housing types, or for a special housing type unless the Housing Authority receives special funding for such programs. A family may choose whether to rent housing that qualifies as a special housing type or to rent other eligible housing in accordance with requirements of the program.

### Verification of Need for Reasonable Accommodation

The use of special housing types would be made available if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable documentation as verification of the need for reasonable accommodation would be a letter from one or more knowledgeable professionals to the Housing Authority describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by designated staff and a written response stating approval or disapproval will be sent to the applicant/participant within fourteen (14) days of receipt of the request.

A copy of the Housing Authority's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982.

**A. SINGLE ROOM OCCUPANCY [24 CFR 982.602, 982-603]**

The Housing Authority will use a separate lease and Housing Assistance Payment contract for each assisted person residing in a Single Room Occupancy (SRO) unit. At this time the Housing Authority is not assisting any SRO units.

**B. SHARED HOUSING [24 CFR 982.615]**

**Occupancy**

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The Housing Authority may approve a live-in aide to reside with a family in order to care for a person with a disability. The Housing Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the Housing Authority. However, housing assistance may not be paid on behalf of an owner. The Housing Authority will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

The Housing Authority will not approve shared housing assistance for a family if the owner resides in the unit and is related by blood and/or marriage to the assisted family. Although other regulations permit the leasing of a rental unit from certain relatives when needed as a reasonable accommodation, the U.S. Department of Housing and Urban Development (HUD) has not established a similarly regulatory provision for shared housing as defined in 24 CFR 982.306.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

**Rent and HAP Contract**

For shared housing, the term “pro-rata portion” means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the “Owner Rents, Rent Reasonableness, and Payment Standards” in this chapter.

**Maximum Subsidy**

For a family that resides in a shared housing unit, the payment standard is the lower of the payment standard amount on the Housing Authority payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the Housing Authority payment standard for the shared housing unit size.

If the Housing Authority approves a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Utility Allowance**

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

### **Housing Quality Standards**

The Housing Authority will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards (HQS) for shared housing as regulated in 24 CFR 982.618.

## **C. MANUFACTURED HOMES [24 CFR 982.620]**

The Housing Authority will permit a family to lease a manufactured home and space with assistance under the program. The Housing Authority will provide assistance for a family that owns the manufactured home and leases only the space.

### **Housing Quality Standards [24 CFR 982.621]**

A manufactured home must meet all the HQS requirements outlined in Chapter 10, "Housing Quality Standards and Inspections" and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

- A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage
- A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding

### **Manufactured Home Space Rental [24 CFR 982.622]**

Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

### **Reasonable Rent**

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the Housing Authority.

The Housing Authority will not approve a lease for a manufactured home space until the Housing Authority has determined that the initial rent to owner for the space is a reasonable rent.

At least annually during the assisted tenancy, the Housing Authority will redetermine that the rent is reasonable.

The Housing Authority will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The Housing Authority will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.



By accepting each monthly housing assistance payment from the Housing Authority, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rentals of comparable spaces in the same manufactured home park or elsewhere. If requested by the Housing Authority, the owner must provide the Housing Authority information on rents for other manufactured home space.

### **Housing Assistance Payments for Manufactured Home Space [24 CFR 982.623] HAP for the Voucher Tenancy**

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40% of the published FMR for a two-bedroom unit.

### **Subsidy Calculation for the Voucher Program**

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of the payment standard minus the total tenant payment, or the rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the Housing Authority:

- Rent to owner for the manufactured home space
- Owner maintenance and management charges for the space
- The utility allowance for tenant paid utilities

### **Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]**

The Housing Authority will establish utility allowances for manufactured home space rentals. During the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

## **D. ASSISTED LIVING UNITS (PIH NOTICE 2012-40)**

### **Occupancy**

An assisted family may reside in an assisted living unit. An assisted living facility is a public facility, proprietary facility, or facility of private nonprofit corporation that:

- Is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located;
- Makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money,

using the telephone, or performing light or heavy housework, and which make available to residents home health care services such as nursing and therapy; and

- Provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility.

Assisted living facilities may be referred to as residential care facilities, adult care facilities, congregate care facilities or group homes as long as they meet the requirements noted above. Assisted living facilities are designed for residents who have the physical ability to live independently but need assistance with some activities of daily living such as personal care, transportation, meals, laundry, medication monitoring, security, and housekeeping. A person residing in an assisted living unit must not require continual medical or nursing care.

### **Rent**

Section 302 of the Section 202 Supportive Housing for the Elderly Act of 2010 (Public Law 111-372). *Monthly Assistance Payment under Rental Assistance* amends section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) to allow a Housing Authority to require a family to pay more than 40 percent (40%) of its monthly adjusted income for a unit in an assisted unit facility if the amount or percentage is reasonable given the services and amenities provided by the assisted living facility and as the Secretary deems appropriate.

A Housing Authority may submit a request for a waiver of 24 CFR 982.508 and 982.305(a)(5) through the waiver process under 24 CFR 5.110 to require a family to pay more than 40 percent (40%) of its adjusted monthly income for an assisted unit, in order to allow the family to lease an assisted living unit that would otherwise be disapproved because the family share would exceed 40 percent (40%) of monthly adjusted income. HUD will review such requests on a case-by-case basis and may grant the waiver if HUD determines the request demonstrates good cause.

# Chapter 21

## HOUSING CHOICE VOUCHER HOMEOWNERSHIP OPTION PROGRAM

### INTRODUCTION

**T**he Housing Choice Voucher Homeownership Option Program permits eligible participants in the Housing Choice Voucher program, including participants with portable vouchers, the option of purchasing a home with their voucher assistance rather than renting.

Eligible families will be current Housing Choice Voucher participants. Public Housing residents are also eligible as long as applicable transfer requirements between the Public Housing program and Housing Choice Voucher program are met and vouchers are available. The Homeownership Option Program can only be offered to those eligible for the voucher program. In addition, families can have no outstanding debt to the Housing Authority or any other Public Housing Authority, and must have successfully completed a pre-assistance homeownership and housing counseling program.

**A. INITIAL REQUIREMENTS [24 CFR 982.626]**

Before commencing homeownership assistance for a family, the Housing Authority must determine that all of the following requirements have been satisfied:

1. The family is qualified to receive homeownership assistance (see “Family Eligibility Requirements” in Section D of this chapter).
2. The unit is eligible (see “Eligible Types of Homes” in Section B of this chapter).

The Housing Authority may limit homeownership assistance to families or purposes defined by the Housing Authority, and may prescribe additional requirements for commencement of homeownership assistance for a family.

**B. ELIGIBLE TYPES OF HOMES [24 CFR 982.628]**

The family shall have the flexibility to choose the type of housing most suitable for its particular circumstances. The Homeownership Option Program may be used to purchase any home within San Joaquin County, or any political subdivision thereof, including new or existing single-family, condominium, planned use development, cooperative, loft/work units or manufactured homes. The unit must be inspected by a Housing Authority inspector and satisfy the Housing Quality Standards (HQS) requirements. The unit must also be inspected by an independent inspector designated by the family.

**C. PORTABILITY [24 CFR 982.636]**

The Housing Authority will also allow portability of homeownership assistance to another jurisdiction, provided the receiving jurisdiction is administering a voucher homeownership program and is accepting new families. The family must attend the briefing and counseling sessions required by the receiving Housing Authority. The receiving Housing Authority will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving Housing Authority must promptly notify the initial Housing Authority if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the Housing Authority.

**D. FAMILY ELIGIBILITY REQUIREMENTS [24 CFR 982.627]**

Participation in the Housing Choice Voucher (HCV) Homeownership Program is voluntary. Each homeownership participant must meet the general requirements for admission to the Housing Choice Voucher Program (HCVP) as set forth in this Administrative Plan.

The HCVP family must also be eligible to participate in the Housing Authority Homeownership Option Program as follows:

1. Be a first-time homebuyer.
2. Meet minimum income and employment duration requirements.
3. Have fully repaid any outstanding debt owed to the Housing Authority.
4. Have not defaulted on a mortgage securing debt to purchase a home under the Homeownership Option Program

5. Not have any member who has a present ownership interest in a residence at the commencement of homeownership assistance.

### **First Time Homebuyer**

Each HCVP family must be a first-time homebuyer, meaning that no member of the household has had an ownership interest in any residence during the three (3) years preceding commencement of homeownership.

A single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a “first-time homebuyer” for the purpose of the HCV Homeownership Option Program. A member of a cooperative family of which a family member is a person with disabilities, and use of the homeownership option is needed as a reasonable accommodation so that the program is readily accessible to and usable by such person, in accordance with part 8 of this title.

### **Minimum Income Requirement**

At the time the family begins receiving homeownership assistance, the head of household, spouse, and/or other adult household members who will own the home, must have gross annual income of at least equal to the federal minimum hourly wage multiplied by 2,000 hours.

For the purposes of the HCV Homeownership Option Program only, the Housing Authority will disregard any welfare assistance income in determining whether the family meets the minimum income requirement. Welfare assistance includes income from Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to an income eligibility test; food stamps; general assistance; or other welfare assistance specified by HUD. The disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the Homeownership Option program.

### **Disabled Family**

In the case of a disabled family (as defined in Section 5.403 (b) of this title), the monthly Federal SSI benefit for an individual living alone (or paying his or her share of food and housing costs) is multiplied by twelve (12).

The determination of income eligibility for admission to the HCVP, calculation of the family’s total tenant payment, or calculation of the amount of homeownership assistance payments is not affected by this income disregard.

### **Employment History**

Each family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time an average of not less than thirty (30) hours per week and has been so continuously employed for one year prior to execution of the commencement of homeownership assistance. One thirty (30) day break in service during the twelve (12) month period shall be allowed.

### **Repayment of Any Housing Authority Debts**

Participants in the HCVP shall be ineligible for participation in the Homeownership Option Program in the event any debt or portion of debt remains owed to the Housing Authority or any other Public Housing Agency.

### **Prior Mortgage Defaults**

If the head of household, spouse or other adult household member who will execute the contract of sale, mortgage, or other loan documents has previously defaulted on a mortgage obtained through the HCV Homeownership Program, the family will be ineligible to participate in the Homeownership Option Program. Default shall be declared when an adult household member does not fulfill his/her mortgage obligation(s) in a timely manner and vacates the premises without making suitable arrangements with the lender(s) and the Housing Authority.

### **Elderly and Disabled Households**

Elderly and disabled families are exempt from continuous employment requirements. Also, the Housing Authority will consider all forms of income in determining where they meet minimum income requirements for participation in the HCV Homeownership Option Program.

## **E. FAMILY PARTICIPATION REQUIREMENTS**

Once a family is determined to be eligible to participate in the program, it must comply with the following additional requirements:

1. Complete a homeownership counseling and pre-assistance homeownership program approved by the Housing Authority prior to commencement of homeownership assistance.
2. Locate a home it proposes to purchase within a specified time frame.
3. Submit a sales agreement containing specific components to the Housing Authority for approval.
4. Allow the Housing Authority to inspect the proposed homeownership dwelling to assure that the dwelling meets appropriate HQS.
5. Obtain an independent inspection covering major building systems.
6. Obtain Housing Authority approval of the proposed mortgage.
7. Enter into a written agreement with the Housing Authority to comply with all of the family obligations under the HCVP, including the Homeownership Option Program.
8. Use a real estate professional.

### **Homeownership Counseling Program [24 CFR 986.630]**

A family's participation in the Homeownership Option Program is conditioned on the family attending and successfully completing a homeownership and housing counseling program approved by the Housing Authority prior to commencement of homeownership assistance.

The homeownership and counseling program will cover home maintenance; budgeting and money management; credit counseling; negotiating purchase price; securing mortgage financing while avoiding predatory lenders; finding a home; fair housing issues; and the advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families.

The Housing Authority may require families to participate in a Housing Authority approved post purchase counseling program on an ongoing basis.

### **Locating and Purchasing a Home**

A Homeownership Program Voucher will be issued when the family has met all eligibility requirements, including completing the approved homeownership counseling program and pre-approval of a mortgage loan from a lender. From the time the homeownership voucher is issued, the family will have six (6) months to locate a home to purchase. A home shall be considered if the family submits a proposed sales agreement with the requisite components to the Housing Authority. If a suitable home to purchase is not located within six (6) months, the voucher will expire. If the family had entered into a contract to purchase but the renovation or construction is not completed within the six (6) month period, the voucher will be extended by the length of time necessary to compensate for any such construction delay that is beyond the control of the participant.

The family may convert their homeownership voucher to a rental voucher at any time during the original six (6) month period provided the family had a rental voucher previously.

Homeownership voucher holders and Public Housing residents whose assistance expires must wait a year before reapplying for the Homeownership Option Program.

### **Type of Home [24 CFR 982.628]**

The family approved for the HCV homeownership assistance may purchase any of the following types of homes anywhere within San Joaquin County or any incorporated area therein:

- A new or existing single family or condominium home, including a home in a planned use development
- A cooperative
- A loft or live/work unit
- A manufactured home to be situated on a privately owned lot or on a leased pad in a mobile home park.

The home must already exist or be under construction at the time the family commits to purchasing the unit.

The family may also purchase a home in a jurisdiction located outside the boundaries of San Joaquin County, provided the Housing Authority in the receiving jurisdiction operates a Homeownership Option Program for which the homeownership applicant qualifies or authorizes the Housing Authority to administer the homeownership assistance in their jurisdiction, also provided that the receiving Housing Authority is accepting applications. In the former case, a family's participation in the HCVP will be subject to the Homeownership Option Program and policies of the receiving jurisdiction.

### **Purchasing a Home**

The family shall have up to six (6) months to purchase a home. Once a home is located and a sales agreement approved by the Housing Authority is signed by the family, the family shall have up to three (3) months, or such other time as is approved by the Housing Authority's Executive Director or set forth in the Housing Authority approved sales agreement to purchase the home unless there is an unforeseen construction delay that is not the responsibility of the family.

### **Sales Agreement**

Prior to execution of the offer to purchase or sales agreement, the family must provide the financing terms to the Housing Authority for approval. The sales agreement must provide for inspection by the Housing Authority and the required independent inspection, and that the purchaser is not

obligated to purchase unless such inspections are satisfactory to the Housing Authority. The contract must provide for at least a one year home warranty. The contract must also provide that the purchaser is not obligated to purchase if the mortgage finance terms are not approved by the Housing Authority. It must also contain a seller certification that the seller is not disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 982.631.

**Required Inspections [24 CFR 982.631]**

To assure that the home complies with the Housing Quality Standards (HQS) of the Housing Choice Voucher Program, homeownership assistance payments may not commence until the Housing Authority first inspects the home. The Housing Authority inspection will be the initial response to receipt of a sales agreement.

An independent inspection of existing homes covering major building systems also must be completed by a professional selected by and paid for by the family and approved by the Housing Authority. The independent inspection report must be provided for the Housing Authority. The Housing Authority may disapprove the unit due to information contained in the report for failure to meet HQS.

**Financing Requirements**

The Housing Authority will review lender qualifications and the loan terms before authorizing homeownership assistance. The Housing Authority may disapprove proposed financing, refinancing or other debt if the Housing Authority determines that the debt is unaffordable.

The proposed financing terms must be submitted to and approved by the Housing Authority prior to close of escrow. Balloon payments, adjustable rate mortgages and loans with predatory practices will not be approved. Requests to obtain financing for a Home Equity loan will not be approved by the Housing Authority. The Housing Authority will only approve a request to refinance for the following reasons:

1. To allow the homeowner to take advantage of a lower interest rate.
2. To allow the homeowner to make necessary major repairs. The amount of cash paid out to make the repairs shall not exceed two percent (2%) of the initial loan amount. The Housing Authority will determine what the major repairs are.

Requests for refinancing will be approved by the Director of Rental Assistance or his or her designee.

**F. COMPLIANCE WITH FAMILY OBLIGATIONS [24 CFR 982.633]**

A family must agree in writing to comply with all family obligations under the HCV Program and the Housing Authority Homeownership Option Program policies. The obligations include:

1. Family obligations. The family must comply with the following obligations:

(A) Ongoing counseling:

To the extent required by the Housing Authority, the family must attend and complete ongoing homeownership and housing counseling.

(B) Compliance with mortgage:



The family must comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).

(C) Prohibition against conveyance or transfer of home:

- (i) So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to §982.551(h) and (i).
- (ii) The family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.
- (iii) Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with §982.551(h).

(D) Supplying required information:

- (i) The family must supply required information to the Housing Authority in accordance with §982.551(b).
- (ii) In addition to other required information, the family must supply any information as required by the Housing Authority or HUD concerning:
  - (a) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;
  - (b) Any sale or other transfer of any interest in the home; or
  - (c) The family's homeownership expenses.

(E) Notice of move-out:

The family must notify the Housing Authority before the family moves out of the home.

(F) Notice of mortgage default:

The family must notify the Housing Authority if the family defaults on a mortgage securing any debt incurred to purchase the home.

(G) Prohibition on ownership interest on second residence:

During the time the family receives homeownership assistance under this subpart, no family member may have any ownership interest in any other residential property.

(H) Additional Housing Authority requirements:

The Housing Authority may establish additional requirements for continuation of homeownership assistance for the family (for example, a requirement for post-purchase homeownership counseling or for periodic unit inspections while the family is receiving homeownership assistance). The family must comply with any such requirements.

(I) Other family obligations:

The family must comply with the obligations of a participant family described in §982.551. However, the following provisions do not apply to assistance under the homeownership option §982.551(c), (d), (e), (f), (g) and (j):

- Statement of homeowner obligations. Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the Homeownership Option Program.

**Occupancy of the Home**

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the Housing Authority may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the Housing Authority the homeownership assistance for the month when the family moves out.

**G. AMOUNT OF ASSISTANCE [24 CFR 982.635]**

The amount of the monthly assistance payment will be based on three factors:

1. The voucher payment standard for which the family is eligible;
2. The monthly homeownership expense; and
3. The family's household income.

The Housing Authority will pay the lower of either the payment standard minus the Total Tenant Payment (TTP) or the family's monthly homeownership expenses minus the TTP. The HCV family will pay the difference.

**Determining the Payment Standard**

The voucher payment standard is the fixed amount the Housing Authority annually establishes as the Fair Market Rent (FMR) for a unit of a particular size located within the Housing Authority's jurisdiction. In the Homeownership Option Program, the initial payment standard will be the lower of either (1) the payment standard for which the family is eligible based on family size, or (2) the payment standard which is applicable to the size of the home the family decides to purchase.

The payment standard for subsequent years will be based on the higher of (1) the payment standard in effect at the commencement of the homeownership assistance, or (2) the payment standard in effect at the most recent regular reexamination of the family's income and size. The initial payment standard, for purposes of comparison, shall not be adjusted even if there is a subsequent decrease in family size. The Housing Authority will request HUD approval of a higher payment standard where warranted as a reasonable accommodation for a family that includes a person with disabilities.

#### **Determining Monthly Homeownership Expenses**

Monthly homeownership expenses includes all of the following: principal and interest on the initial mortgage and any Mortgage Insurance Premium (MIP) incurred to finance the purchase and any refinancing of such debt; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per Housing Authority allowance (replacement reserves 1% of purchase price); utility allowance per Housing Authority's schedule of utility allowances; principal and interest on mortgage debt incurred to finance major repairs; replacements or improvements for the home including changes needed to make the home accessible; and Homeowner Association dues, fees or regular charges as assessed, if any.

Homeownership expenses for a cooperative member may only include Housing Authority approved amounts for the cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home; principal and interest on the initial debt incurred to finance purchases of cooperative membership shares and refinancing of such debt; home insurance; the allowances for maintenance expenses, major repairs and replacements and utilities; and principal and interest on debt incurred to finance major repairs, replacements or improvements, including changes needed to make the home accessible.

#### **Determining the Housing Authority Portion**

The Total Tenant Payment (TTP) is that portion of the homeownership expense that the family must pay. The TTP is generally thirty percent (30%) of the family's adjusted income, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance) will be counted to determine the family's adjusted monthly income for purposes of determining the amount of assistance.

#### **Payment to the Family or Lender**

The Housing Authority must pay homeownership assistance payments either directly to the family or at the discretion of the Housing Authority, to the lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the Housing Authority must pay the excess directly to the family.

### **H. MOVES WITH CONTINUED TENANT BASED ASSISTANCE 24 CFR 982.637**

#### *(a) Move to new unit.*

(1) A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance in accordance with this section. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

(2) The PHA may not commence continued tenant-based assistance for occupancy of the new unit so long as any family member owns any title or other interest in the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if such family or family member owns any title or other interest in the prior home.

(3) The PHA may establish policies that prohibit more than one move by the family during any one-year period. However, these policies do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

*(b) Requirements for continuation of homeownership assistance.* The Housing Authority must determine that all initial requirements listed in §982.626 (including the environmental requirements with respect to a unit not yet under construction) have been satisfied if a family that has received homeownership assistance wants to move to such a unit with continued homeownership assistance. However, the following requirements do not apply:

(1) The requirement for pre-assistance counseling (§982.630) is not applicable. However, the Housing Authority may require that the family complete additional counseling (before or after moving to a new unit with continued assistance under the homeownership option).

(2) The requirement that a family must be a first-time homeowner (§982.627) is not applicable.

*(c) When Housing Authority may deny permission to move with continued assistance.* The Housing Authority may deny permission to move to a new unit with continued voucher assistance as follows:

(1) *Lack of funding to provide continued assistance.* The Housing Authority may deny permission to move with continued rental or homeownership assistance if the Housing Authority determines that it does not have sufficient funding to provide continued assistance. The Housing Authority must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves based on insufficient funding.

**I. GROUNDS FOR TERMINATION OF HOMEOWNERSHIP ASSISTANCE**

A family's homeownership assistance may be terminated if the family fails to comply with:

1. Their family obligations under the Housing Choice Voucher Program
2. Housing Authority homeownership policies
3. If the family defaults on the mortgage

If required, the family must attend and complete ongoing homeownership and housing counseling classes. The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home. The family must provide the Housing Authority with written notice of any sale or transfer of any interest in the home; any plan to move out of the home prior to the move; the family's household income and homeownership expenses on an annual basis; any notice of mortgage default received by the family; any other notices which may be required pursuant to the Housing Authority's Homeownership Option Program policies. Except as otherwise provided in this section, the family may not convey or transfer a home to any entity or person other than a member of the assisted family while receiving homeownership assistance.

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, the Housing Authority will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the Housing Authority for homeownership assistance paid for the month the family moves out.

A participant in the HCV Homeownership Option Program shall be entitled to the same termination notice and informal hearing procedures as set forth in this Administrative Plan.

**Default and Continued Participation in the Housing Choice Voucher Program**

If the family defaults on any mortgage, the Housing Authority may permit the family to move with continued HCV rental assistance, if the family demonstrates that it has:

1. Conveyed title to the home to HUD or its designee, as required by the lender, the Housing Authority or HUD.
2. Moved from the home within the period established or approved by the lender, the Housing Authority or HUD.

**Administrative Fee**

For each month that homeownership assistance is paid by the Housing Authority on behalf of the family, the Housing Authority shall be paid the ongoing administrative fee described in 24 CFR 982.152(b).

**J. PROGRAM CHANGES**

The Executive Director of the Housing Authority shall have the discretion to waive or modify any provision of the Homeownership Option Program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

**Mortgage defaults**

The Housing Authority may permit the family to move with continued homeownership assistance if the default is due to catastrophic medical reasons or to the impact of a federally declared disaster.

# Chapter 22

## PROJECT-BASED VOUCHER PROGRAM [24 CFR Part 983]

### INTRODUCTION

**T**his chapter describes the Project-Based Voucher Program (PBV) in accordance with HUD regulations and Housing Authority policies.

## Overview

The PBV program allows Housing Authorities that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. Housing Authorities may only operate a PBV program if doing so is consistent with the Housing Authority's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

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 Housing Authority is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the Housing Authority 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].

The Housing Authority will correspond with H.R. 3700 "Housing Opportunity through Modernization Act of 2015" (HOTMA) PBV regulatory cap of 20% of overall vouchers under contract or 30% if the Housing Authority uses the additional 10% to:

- House the homeless or veterans;
- Provide housing for disabled or elderly; or
- For projects in areas where vouchers are difficult to use

Subsequent reductions in budget authority do not require any reduction in the number of PBV units under the AHAP or Housing Assistance Payment (HAP) contract. HUD does not provide additional housing assistance payments or administrative fees for the PBV program.

Units may be selected in a new construction project, a rehabilitation project, and/or an existing project. The number of units that can be selected will be the greater of 25 units in a project or 25% of the project's units. For units in a project where either voucher use is difficult or where the census tract poverty rate is 20% or less, the cap in a project may not exceed 40%. Exceptions to the twenty five percent (25%) general rule are available for units in single family homes (defined as four (4) units or less), and units in a multi-family building that are available for qualifying families. Qualifying families are elderly and/or disabled families and families receiving supportive services.

The Housing Authority can execute an initial HAP contract for up to twenty (20) years, with the option to renew the HAP contract in twenty (20) year increments if the Housing Authority determines an extension is appropriate. Rents under the PBV program are generally limited to the Fair Market Rent (FMR) or other HUD approved exception rents.

Like tenant-based rents, PBV rents must also be rent reasonable. HUD has promulgated special exceptions for projects that receive other forms of subsidy or tax credits.

After twelve (12) months, families have the option to move from PBV assisted housing to tenant-based housing if funding is available. A separate transfer list has been established to facilitate a fair and equitable method of allocating available tenant-based vouchers to eligible project-based residents.

### **Additional Project-Based Units [FR Notice 1/18/17]**

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

#### PHA Policy

The PHA will not set aside units above the 20 percent program limit.

### **Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]**

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. In order to be an exception unit, the following conditions must be met:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
  - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
  - The unit was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

#### **A. Owner Proposal Selection Procedures**

The Housing Authority must select PBV proposals in accordance with the selection procedures in the Housing Authority Administrative Plan. The Housing Authority must select PBV proposals by either of the following two methods.



**Request for Proposal (RFP).** An advertisement announcing an RFP will be published in local newspapers of general circulation and on the Housing Authority's website, in the procurement section.. The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered for the project-based program, the submission deadline, and will note how to obtain the full RFP that contains comprehensive information about the application and selection process. Any advertisement for the PBV will contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements. The due date for the submission of the RFP will be determined in accordance with the Housing Authority's Procurement Policy.

**Other Competitive Proposals.** Selection of a proposal that was previously selected within the last three (3) years pursuant to another program's competitive process (i.e. tax credits, etc.) and in which the possible receipt of PBV assistance was not a consideration. Such proposals will be evaluated in accordance with criteria established in the Housing Authority's Annual Plan and/or the Consolidated Plan for the jurisdiction in which the project is to be located.

**B. Criteria for PBV Award**

**Deconcentrate Poverty.** The site and/or location are consistent with the goal of deconcentrating poverty, expanding housing and economic opportunities, and facilitating compliance with Fair Housing laws. Generally, this standard is met as long as no more than twenty percent (20%) of the households in the census tract in which the project is located are at or below the established poverty level for the county.

**Housing Quality Standards (HQS) Site and Neighborhood Inspection.** The site must meet HQS site standards (see Chapter 10, Housing Quality Standards and Inspections). The site and neighborhood must be reasonably free from disturbing noises, reverberations, and other dangers to the health, safety and general welfare of the occupants. Other dangers shall include scientifically verified unacceptable levels of contamination of air or water. It shall be presumed if the project is surrounded by other occupied homes and/or ongoing businesses that said dangers do not exceed the threshold to pass HQS site standards, unless information is received to the contrary. The Housing Authority is responsible for inspecting the proposed project's site and neighborhood to determine consistency with the HQS site standards.

**Promote the Housing Authority Goals.** Projects must contribute to meeting the goals outlined in the Housing Authority's Annual Plan and/or the Consolidated Plan for the jurisdiction in which the project to be assisted is located. These goals will be clearly identified in the RFP and will also be applied to "Other Competitive Proposals".

**Units Eligible for PBV Award.** Multi-family rental housing units are generally eligible for PBV's. Duplex units and larger may be awarded PBV's so long as their use does not fall under the categories listed below under "Condition's that Prohibit PBV Award". Rental units located in a project that is being developed with Hope VI funds (awarded in fiscal year 2001 or later) or HUD Capital funds which are themselves not public housing units, may receive PBV assistance so long as the ratio of non-Hope VI or Capital funds and other public housing funds used in the development (i.e. a thirty (30) unit project may have twenty (20) PBV units and ten (10) public housing units so long as the amount of public housing funds, including Hope VI and Capital funds, is less than 33.33% of the total amount of funds used in the development of the thirty (30) rental units). PBV assistance in Hope VI/Mixed Finance transactions that are "mixed-income"

developments (i.e. that do not consist solely of all public housing units) is permitted subject to certain restrictions. In addition, PBV assistance is permitted for a unit that has been subsidized with HUD Section 236 interest reduction payments.

**Conditions that Prohibit PBV Award.** PBV assistance may not be provided to nursing homes, transitional housing, cooperative housing, student housing, owner-occupied housing, a high-rise elevator project that may be occupied by families with children, or for any unit currently existing that has a family who is not eligible for assistance under the PBV. In addition, the Housing Authority may not pay PBV assistance to any unit that is a public housing unit, a unit that is subsidized with another form of Housing Choice Voucher (HCV) assistance such as HUD's tenant-based voucher assistance, a unit subsidized with another government rental subsidy, such as HUD's Section 236 rental assistance payments or rental assistance under the Federal HOME Investment Partnerships Program, or units subsidized by HUD under its Section 202 (housing for seniors) or Housing Choice Voucher 11 (housing for persons with disabilities) programs.

**Projects Owned by the Housing Authority.** Selection of PBV units that are owned by the Housing Authority, or in which the Housing Authority has an identity of interest, must be approved by HUD using criteria that mirror those in the applicable or most recent RFP, Annual Plan and/or Consolidated Plan of the jurisdiction in which the proposed project is to be located.

### C. **Project Selection and Requirements**

**Notice Procedures.** A notice of owner selection must be in writing and can only be made after the items above have been determined. The Public Notice of the project selected for PBV assistance must be made within fourteen (14) calendar days. The Public Notice shall consist of a single notice in the local newspaper of general circulation under Legal Notices and on the official Housing Authority website. Selection of a Housing Authority owned project can be made only after HUD determines that the selection was made in conformance of the procedures specified in this Administrative Plan. The Housing Authority will make available for public review all documentation used in making the selection of proposals.

**Requirements for a PBV Assisted Construction Project.** Construction projects include new construction (projects that do not exist on the date of project selection) and rehabilitation (existing projects that do not substantially meet HQS on the date of selection). New construction and rehabilitation projects must have an Agreement to enter a Housing Assistance Payment (AHAP) contract before construction starts on the project.

**Pre-AHAP Requirements.** Before the Housing Authority can execute an AHAP contract for a new construction or rehabilitation project, the following requirements must be met:

- Environmental review must be completed
- Request for Release of Funds must have been granted
- Determination of proposed rents and utility allowances has been made
- Subsidy layering review completed

AHAP Requirements are as follows:

- Construction cannot commence prior to the execution of an AHAP (in a form required by HUD Headquarters)

- The AHAP must contain description of the project, including identification of the site, location of contract units and the following:
  - Number and size of units (square feet, bedrooms and baths)
  - Services, maintenance or equipment supplied by owner
  - Utilities provided by owner
  - Indication of whether requirements of the Fair Housing Act and 504 (access for disabled) will apply to contract units
- Estimated initial rent to owner
- Description of work to be performed under the AHAP including additional Housing Authority quality and design requirements that exceed the HQS requirements
- Labor standard requirements apply to the development of nine (9) or more contract units. Note that other funding in the project may trigger a more restrictive threshold for the project.
- Section 3, employment of low-income persons on or associated with the project and other Equal Opportunity requirements
- Debarred project principles cannot be awarded participation in the PBV program or other federal programs and activities
- The owner must disclose any possible conflict of interest
- The project must be completed within specified deadlines contained in the AHAP

**Pre-Housing Assistance Payment (HAP) Contract Requirements.** Prior to execution of the HAP, the Housing Authority must determine that the owner has submitted all required evidence of completion and assure that the work has been completed in accordance with the AHAP including:

- Certification by the owner that the project has been completed in accordance with HQS and all other requirements in the AHAP
- An owner certification that the labor standard requirements and the equal opportunity requirements have been complied with
- Any additional documentation that may be required by the Housing Authority

**D. Requirements to Execute a HAP Contract for Existing Projects**

Assure that the Environmental Review has been done and a Request for Release of Funds has been granted as well as the following:

- The determination of rents and the utility allowance has been made
- A subsidy layering review has been completed
- Assure that the project actually meets the HQS requirements

**E. HAP Requirements for all Construction and Existing Projects**

Must be in a form required by HUD Headquarters and it must contain description of the housing including:

- Identification of the site
- Location of contract units
- Number and size of units (square feet, bedrooms and baths)
- Services, maintenance, or equipment supplied by owner

- Utilities provided by owner
- Indication of whether requirements of the Fair Housing Act and 504 will apply to contract units

It must include the initial rent to owner and contract term. The term of the contract is subject to availability of sufficient appropriated funding as determined by HUD or the Housing Authority.

## **F. HAP Contract Amendments**

### **Limited unit substitutions allowed**

A unit meeting the PBV requirements, including meeting HQS, can substitute a different unit of the same bedroom size in the same building by amendment. The reasonable rent for the substitute unit must be determined prior to the effective date of substitution.

### **Limited additional units allowed**

Within three (3) years of HAP contract execution, units may be added to the HAP contract by amendment provided that:

- The twenty five (25%) unit limitation or 25 units in a project (whichever is greater) is not exceeded.

The addition of units will not exceed the HOTMA regulatory cap of twenty percent ( 20%) of overall vouchers under contract or 30% if the Housing Authority uses the additional 10% to:

- House the homeless or veterans;
  - Provide housing for disabled or elderly; or
  - For projects in areas where vouchers are difficult to use
- The units must meet PBV requirements.

The Housing Authority and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the Housing Authority must submit to the local field office information outlined in FR Notice 1/18/17. The Housing Authority must also detail in the Administrative Plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

### **HAP Anniversary Date**

For units added by amendment to the HAP contract or staged completion of a project, the anniversary date for the HAP contract is the date the contract was initially executed. The expiration date of the HAP contract is based on the date that the HAP contract was initially executed.

### **Staged Units**

The difference between units added by amendment to the HAP contract and a staged HAP contract is that the units in a staged HAP contract were identified in the HAP contract while those added by amendment were not.

## **G. Rent Determinations and Changes**

The amount of the initial rent that the owner may collect from its tenants is established at the beginning of the HAP contract term. During the term of the HAP contract, the rent to the owner is redetermined at:

- The owner's request for a rent increase
- Any time there is a five percent (5%) or greater decrease in the published HUD Fair Market Rent (FMR) for the area in which the project-based unit is located. Under the final PBV regulations, the general rule is that the rent an owner may charge for a unit receiving PBV assistance shall not exceed the lower of (1) the applicable FMR for the unit, based on the bedroom size, (2) the reasonable rent as determined by the Housing Authority, or (3) the rent requested by the owner.

If the unit receiving PBV assistance is also a Low Income Housing Tax Credit (LIHTC) unit, the project is not located in a qualified Census Tract, the unit is located in a building that has LIHTC units of the same bedroom size as the PBV units but those comparable LIHTC units do not have any form of rental assistance other than tax credits, and if the tax credit rent exceeds the applicable HUD Fair Market Rent, then the rent to owner is not to exceed the lower of (1) the tax credit rent minus any utility allowance as established under the rules of the LIHTC, (2) the reasonable rent as determined by the Housing Authority, or (3) the rent requested by the owner.

The owner of such a LIHTC unit would be limited to receiving:

- Rent from the tenant
- PBV assistance for that unit up to only the maximum tax credit rent

This will also apply to existing HAP contracts at the time of any adjustment in the rents that may be charged under those PBV/LIHTC HAP contracts.

Finally, rent for PBV assisted units may not exceed any other rent limitations that may be imposed (for example under the LIHTC program for tax credit units or units that were constructed using funds from the Federal HOME Investment Partnerships Program).

## **H. PBV Rents Based on Fair Market Rents**

In determining rents, the Housing Authority will use the most recently published HUD Fair Market Rents (FMR) in effect and the utility allowance schedule in effect as to the execution of the HAP contract for the Housing Authority's geographical area, or the amounts for each in effect at any time during the thirty (30) day period immediately prior to the beginning date of the HAP contract. The Housing Authority must use the same applicable utility allowance schedule for both its tenant-based and project-based voucher programs.

## **I. Owner Rent Increase Requests**

If the owner desires to increase the rents charged to the PBV assisted units, the request for an increase in the rents must be made by the owner in writing to the Housing Authority at least sixty (60) days, but no more than ninety (90) days prior to the annual anniversary of the HAP contract. The Housing Authority will then determine if the owner is entitled to a rent increase by recomputing the maximum rent that could be charged by an owner under the tests described above.

The Housing Authority may determine on its own that there should be a rent decrease if there has been a decrease of five percent (5%) or greater in the HUD Fair Market Rent for the project area. Such a rent decrease will apply even if the owner did not request the rent determination (or in fact asked for a rent increase). The new adjusted rent that may be charged by the owner applies for the period of twelve (12) calendar months from the annual anniversary of the HAP contract.

In addition to redeterminations based on changes in HUD's Fair Market Rents or requests by the owner, the Housing Authority is required to redetermine the reasonable rent that may be charged by the project owner whenever the HAP contract is amended to substitute different contract units in the same building which is permitted at any time during the term of the HAP contract, as would be the case when the owner decides to allow the PBV units in that building to "float" and therefore, not designate specific rental units as the PBV units. The option to "float" units is the owner's to declare at initial occupancy. Once selected, the choice is irrevocable. Later exceptions may be granted in extreme circumstances and at the sole discretion of the Housing Authority.

In determining the reasonable rent, the Housing Authority must conduct a comparability analysis (either by its own staff or by another qualified person or entity) and consider at least three (3) comparable units in the private, unassisted market; however, those unassisted units may be units in the same project as the PBV assisted units.

The monthly HAP by the Housing Authority to the owner for a PBV contract unit that is leased to a qualifying tenant is the rent that the owner is permitted to charge, minus the rent that the tenant is required to pay to the owner under HUD regulations (which is the tenant rent minus the utility allowance). Under Section 8 (o)(3) of the United States Housing Act of 1937, the tenant's rent contribution is generally limited to forty percent (40%) of the tenant's annual income. If the amount of the utility allowance exceeds the Total Tenant Payment (TTP), the Housing Authority shall pay the amount of such excess utility allowance to the tenant as a reimbursement for tenant paid utilities and the tenant rent to the owner shall then be zero (\$0).

## **J. Vacancy Loss Provisions and Contract Amendment**

If a family moves out of its rental unit, the owner may keep the PBV assistance payment for the month in which the family moves out unless the vacancy was the owner's fault. The Housing Authority will pay for vacant PBV units for an additional two (2) full months after the tenant vacates the unit.

In addition, the Housing Authority may, but is not required to amend the HAP contract to reduce the number of PBV contract units for those PBV units that have been vacant for a period of 120 days or more since the owner provided the Housing Authority a notice of vacancy for such unit(s). Consideration will be taken into account whether to reduce the number of contract units

or not include market conditions, demonstrated efforts to re-rent the unit to qualified applicants, the amount of additional time that may be needed to lease the unit, and any other criteria that would impact the likelihood of being able to rent the unit within another thirty (30) days. However, if the unit remains vacant for 120 days, cancellation of the contract for that unit shall be mandatory.

**K. Lease Expiration**

Upon the expiration of the lease for a PBV assisted unit, which must be for a minimum initial term of one year (and must also contain a HUD required tenancy addendum), the owner may renew the lease, refuse to renew the lease for good cause (as defined under 24 CFR Part 982.310) or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the Housing Authority is obligated to provide the family with tenant-based voucher assistance, and that the PBV unit will be removed from the HAP contract.

**L. Termination of HAP Contract**

An owner is allowed to terminate the HAP contract if the amount of rent to the owner for any PBV contract unit, as adjusted under the project-based voucher rules described above (which are set forth at 24 CFR Parts 983.301, 983.302 and 983.303) is reduced below the amount of the initial rent to the owner established by the HAP contract. In such a case, the families that had received the benefit of the project-based voucher assistance will be entitled to tenant-based voucher assistance.

Once a family has moved into an apartment that receives the benefit of PBV assistance under a HAP contract, the family, if it moves out voluntarily from that project-based assisted unit after at least one year of residing there, the family is eligible for assistance under the Housing Authority's tenant-based voucher program or another comparable program for rental assistance provided by the Housing Authority. However, families that leave the PBV assisted unit before having resided there one year or are evicted at any time for cause are not automatically entitled to assistance under the Housing Authority's tenant-based voucher program.

Upon funding availability and at the Housing Authority's discretion, families residing in project-based units who need to move in the first year because of an increase in family size or because they reside in a special needs units but no special needs exist, may be offered a tenant-based voucher if comparable project-based housing is not available within sixty (60) days.

Upon termination or expiration of the HAP contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The Housing Authority must provide the family with a tenant-based voucher and the family must also be given the option by the Housing Authority and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not

new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether or not the family share would initially exceed 40 percent of the family's adjusted monthly income.

#### **M. Organization and Characteristics of the Wait List for Project-Based Vouchers**

**Status Changes Independently.** The project-based voucher wait list may be opened and closed separately from its community-wide tenant-based wait list. The same public opening and closing procedures shall be used for both lists (see Chapter 4, Establishing Preferences and Maintaining the Waiting List).

**Special Needs Units and Housing Types.** Sufficient information shall be gathered from each family to determine their eligibility for special needs units, i.e. disability (sensory, wheelchair, senior unit, etc.), and special codes developed to allow efficient sorting and identification of such families when special needs units are available.

**Effect of Housing Refusal.** Families refusing an offer of housing shall not have their name removed from the wait list. This does not affect their standing for other areas for which they have applied or on the community-wide tenant-based wait list. Once housed in PBV housing, the applicant's name is removed from the PBV wait list. There is no effect on the community-wide tenant-based wait list.

**Purging the PBV Wait List.** The project-based wait list will be purged as needed. Failure to respond to a purge letter is cause for removal of their listing from the project-based wait list (see Chapter 4, Establishing Preferences and Maintaining the Waiting List)

**Consistency with Tenant-based List.** All other mechanics of wait list management will be consistent with the tenant-based wait list (see Chapter 4, Establishing Preferences and Maintaining the Waiting List)

#### **N. Project-Based Voucher (PBV) Program Limit**

The PBV Program will not exceed twenty percent (20%) of the total number of budgeted units under the Housing Authority's Housing Choice Voucher Program (HCVP).

The Housing Authority shall not deny any family or individual the equal opportunity to apply for or receive assistance under the HCVP on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial status, handicap or disability or sexual orientation.

To further its commitment to fully comply with applicable Civil Rights laws, the Housing Authority will provide Federal, State and local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family's briefing session, and all applicable Fair Housing and Equal Opportunity (FHEO) information and discrimination complaint forms will be made a part of the voucher holder's briefing packet and available upon request at the front desk in the Housing Authority offices.

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



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

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

The Housing Authority's offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by California Relay Service or by utilizing the Telecommunications Device for the Deaf (TDD) TeleTYpe (TTY) at 711 or 1-800-855-7100.

### **Definitions**

***Existing Housing.*** For purposes of the PBV Program, an existing unit is a unit which, at the time of written notice of selection of the project for PBV assistance, requires less than \$1,000 in rehabilitation including its prorated share of work to be done to common areas and systems to meet Housing Quality Standards (HQS).

***Twenty-Five (25%) Percent Maximum.*** No more than the greater of twenty-five (25) units or twenty-five percent (25%) of the units in any PBV project may receive assistance except as noted below:

- Dwellings specifically designated for elderly
- Dwellings specifically designated for disabled families as defined by HUD in 24 CFR 5.403 (b).
- Families receiving supportive services as defined by HUD
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew the HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

PHAs must include in the PHA Administrative Plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. The project must make supportive services available to all families receiving PBV assistance in the

project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A Housing Authority may not require participation in the supportive service as a condition of living in the exception 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.

### **Projects not Subject to a Project Cap [FR Notice 1/18/17]**

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP under which the project was selected or the PHA selected the project without competition, the unit met at least one of the two following conditions:
  - The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,
  - The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

### **Funding Objectives and Requirements**

The goals of the policy and project based program's focus will be on accomplishing the following objectives for households at or below thirty percent (30%) of the Area Median Income (AMI):

- Increase the number of affordable housing opportunities
- Increase the affordability of existing affordable housing opportunities

Units to be selected for project based funding subsidies will have to meet the following criteria:

- a) Serve households at or below thirty percent (30%) of the AMI at time of admission to the project.
- b) Serve special needs populations. Special needs populations include any population that shares a need or set of needs that represents a barrier to success in the Housing Choice Voucher Program. However, an owner cannot discriminate on the basis of a specific disability.
- c) Meet the HUD's Housing Quality Standards.
- d) Be available for occupancy when application for subsidy is made.

All housing providers applying to participate in this program must be eligible to participate in HUD programs.

### **New Construction Requirements**

The owner must submit an architect's certification that the working drawings, specifications and proposed construction comply with HUD's minimum property standards, local codes and ordinances, and zoning requirements.

The site must not be located in an area of minority concentration, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area, unless the project is necessary to meet overriding housing needs that cannot be met in that housing market area. All new construction projects must meet HUD' Field Office site and neighborhood review requirements.

### **Family Outreach**

The Housing Authority will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families. When the waiting list is open, the Housing Authority will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation.

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

### **Advertisement Policy for Soliciting Owners**

An advertisement announcing an RFP will be published in local newspapers of general circulation and on the Housing Authority's website, in the procurement section.. These are the commonly circulated newspapers in the County of San Joaquin. The advertisement will run once a week for a period of three (3) consecutive weeks and indicate the number of vouchers to be project-based and the type of units that will be considered for project-basing. Interested owners will have at least thirty (30) days from the date of the last publication to apply.

An advertisement for existing building units that will be held to the twenty five percent (25%) limitation will be placed separately from those for new construction, rehabilitation and existing units that will exceed the twenty five percent (25%) unit limitation.

All advertisements to project-based vouchers will contain a statement requiring all respondents that participation requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements. New construction and rehabilitation projects will also be subject to the Federal labor standard provisions.

Only applications received in response to a Housing Authority approved RFP will be considered for project basing. If the RFP solicits applications for new or rehabilitation construction only, applications for existing units will not be accepted or vice versa.

A pre-approved advertising and competitive bidding process approved by HUD will be used to solicit project-based vouchers.

### **Minimum Information to be submitted with all Proposals**

All formal proposals should be limited to a total of ten (10) pages. The Housing Authority reserves the right to request additional information, if necessary to complete the selection process. Proposals may combine requests for vouchers for multiple sites/developments under one application or may submit different sites/developments. All sites/developments included in an application will be evaluated as a separate project.

All proposals must provide the following information for each site/development that will be used to determine the amount of rental assistance for the site/development and to evaluate the proposal:

1. Project location (including street address or addresses) and ownership.
2. Building(s) description(s) and number of housing units requiring project-based assistance, including square footage, bedroom count and bathroom count.
3. Estimated date of availability of units.
4. List of area amenities and services, including playgrounds, public schools, public transportation and access to grocery stores.
5. Operating pro-forma statement and current year operating budget including estimated subsidy.
6. Proposed rent per unit, including indication of which utilities, services and equipment are included in the rent and which ones are excluded.
7. Description of experience in managing and operating similar housing developments. Indicate any recent audit findings regarding the management of similar properties. List all projects the organization currently manages that have project-based assistance or some other income restricted units.
8. Description of the population that will be served with respect to household composition and special needs. Indicate the percentage of units that will serve

households with children (or households requiring two or more bedrooms) and the number of bedrooms per housing unit.

9. Indicate the percentage of units that will serve households with special needs and explain why this special needs population represents a barrier to success. Special needs population includes any population that shares a need or a set of needs that represents a barrier to success in the HCVP.
10. Description of the support services to be provided to the special needs population that will be served and how these services will be funded currently and into the foreseeable future. Describe how this project would serve this population if funding for services is reduced or withdrawn.
11. A signed certification of the owner's intention to comply with Title VI of the Civil Rights Act of 1966, Title VIII of the Civil Rights Act of 1968, E.O. 11063, E.O. 11246, Section 3 of the Housing and Urban Development Act of 1968 and all applicable Federal requirements listed in 24 CFR 983.11. This includes, but is not limited to, the payment of not less than the prevailing wages in the locality pursuant to the Davis-Bacon Act to all laborers and mechanics employed in the construction or rehabilitation of the project. Existing housing projects are not subject to this provision.
12. The identity of the owner, developer, builder, architect, management agent (and other participants), the names of officers and principal members, shareholders, investors and other parties having a substantial interest; the previous participation of each in HUD Programs on the prescribed HUD Form No. 2530 and a disclosure of any possible conflict of interest by any of these parties that would be a violation of the Agreement or the Contract; and information on the qualifications and experience of the principle participants

The following information will be requested for applications that are conditionally approved:

- Evidence of site control, and for new construction, identification and description of the proposed site, site plan, and the neighborhood.
- Evidence of compliance with local permits and zoning requirements.
- Documentation that the rents being proposed are reasonable and are comparable to rents being charged for similar housing, with similar amenities in the same area as the proposed project.

### **Vacancy Payments**

The Housing Authority will make vacancy payments of up to sixty (60) days to those landlords who have experienced a vacancy. The vacancy cannot be a result of landlord action or inaction, and the landlord must take every reasonable action to minimize the extent of the vacancy.

The Housing Authority reserves the right to adjust the number of units or terminate the project-based contract, if the units are not fully utilized by an eligible family within 120 days of the vacancy, commencing on the first day of the month when the vacancy occurs.

### **Termination of the HAP Contract**

The Housing Authority may set the initial term of the HAP contract for a maximum five (5) year period and may extend it for subsequent periods ranging from one (1) year to five (5) years as considered appropriate by the Authority to achieve long-term affordability or for the expansion of housing opportunities.

The Housing Authority will stipulate the term of the initial HAP contracts or renewals. All contracts, extensions and renewals are contingent on the future availability of appropriations and availability of funding under the Housing Authority's Annual Contributions Contract (ACC) with HUD.

### **Housing Choice Voucher Project Based Program Guidelines**

#### **Inclusionary Clause**

Notwithstanding the contents of this PBV Program Plan, for all areas not specifically addressed by this plan, the Housing Authority's Administrative Plan shall govern as a supplement to Part 983 of 24 CFR.

#### **Consistency with the Housing Authority Plan**

The PBV Program shall be consistent with the goals and objectives of the Housing Authority's Annual (Agency) Plan. Each plan shall have a statement of the number of PBV units, general locations, and how project-based units will be consistent with the Agency Plan.

#### **Privacy Rights**

Applicants and participants, including all adults in the household, are required to sign the HUD Form 9886, Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD and the Housing Authority will obtain family information.

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

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

The Housing Authority's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location, which is only accessible by authorized staff. Staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

#### **Reasonable Accommodations Policy**

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

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

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following Americans with Disabilities Act (ADA) definition:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment; or
- Being regarded as having such an impairment

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

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

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

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

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

The Housing Authority will provide a written decision to the person requesting the accommodation within fourteen (14) calendar days. If a person is denied the accommodation or

feels that the alternative suggestions are inadequate, they may request an informal hearing to review the Housing Authority's decision.

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

The Housing Authority will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct. The Housing Authority will deny admission to those applicant households with individuals who are, at the time of consideration for admission, using medical marijuana. This is in accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661).

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

### **Verification of Disability**

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

### **Outreach**

Outreach efforts will include notification of the Housing Authority's 504 Advisory Board as well as all other media and agencies listed in the Administrative Plan regarding public notices (see section on opening and closing the waiting list in Chapter 3, Applying for Admission.)

### **Applying for Admission**

All persons who wish to apply for the PBV program must submit a pre-application either on-line or in a written format, as indicated in the Housing Authority's public notice. Applications will be made available in an accessible format upon request from a person with a disability.

Applicants must meet the criteria for the PBV wait list. The Housing Authority must accept pre-applications from applicants for whom the wait list is open. For PBV senior/elderly housing, the applicant must meet the age requirement of 55 years of age or older or the pre-application will not be accepted.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and if requested, it will be mailed in an accessible format.

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

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



## **The Eligibility Process**

The eligibility criteria for families under the PBV Program are identical to those used in the HCVP. The units which are occupied by ineligible tenants cannot be placed under a HAP Contract. The Housing Authority will inspect each unit proposed for the PBV Program and identify any tenants that reside in said units.

A variety of problems may be encountered in determining family eligibility, including families who are not income eligible and otherwise eligible families whose units are too large or too small for their family composition. Mitigation to these situations will be subject to the PBV Final Rule Guidance.

For the purposes of determining eligibility for the PBV Program, Chapter 2 “Eligibility for Admission” section of this Administrative Plan shall apply.

## **Preferences**

The Housing Authority uses the same preferences for the PBV Program as for the HCV program. These preferences are included in Chapter 4, Establishing Preferences and Maintaining the Waiting List of this Administrative Plan.

## **Removal from Waiting List and Purging**

For the purposes of removing and/or purging applicants from the PBV waiting list, the policies established in Chapter 4, Establishing Preferences and Maintaining the Waiting List of this Administrative Plan will apply.

## **Informal Review**

The informal review process as described in Chapter 19, “Complaints and Appeals” of this Administrative Plan will apply to the PBV Program.

## **Tenant Selection**

Income targeting requires that no less than seventy five percent (75%) of the families admitted annually must have incomes that are less than thirty percent (30%) of the area median for the overall voucher program including the PBV Program. All new admissions to the program will be selected from the waiting list.

The Housing Authority will establish a PBV waiting list. All families on the regular waiting list can be placed on this list at their request when it is open. All applicants for tenant-based assistance can be placed on this list without penalty to any other application for assistance they may have been pending.

An applicant cannot be removed from the waiting list because the owner does not select them or because the family does not accept the unit; they maintain their position on the waiting list as though no offer was made.

The Housing Authority may place applicants referred by owners onto the PBV waiting list when it is open. The preferences for admission to the PBV are similar to those used for the tenant-based HCVP.

The protections for victims of domestic violence, dating violence, sexual assault, or stalking in 24 CFR part 5, subpart L, apply to admission to the project-based program.

### **Units Designated for Elderly or Disabled Families**

Developments specifically designed for elderly or disabled families may enter into contract under the PBV Program. An elderly family is defined as a family whose head, spouse, co-head, or sole member is a person who is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with a disability [24 CFR 5.403].

Preference will be given in tenant selection for units in the project-based development designated for senior or disabled families. In selecting elderly or disabled families to fill these units, the Housing Authority must also apply any preferences established in this Administrative Plan. The Housing Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

If there are not enough elderly families to occupy the units in a designated senior Project Based Voucher development, the Housing Authority may allow near-elderly families to occupy the units. A near-elderly family is a family whose head, spouse, or co-head is at least 50 years of age but is less than 62 years of age. When there are insufficient elderly families on the waiting list who wish to reside in a PBV Program development designated as a senior complex, near-elderly families will be selected.

### **Housing Authority/ Owner Responsibility/ Obligation of the Family**

This section outlines the responsibilities and obligations of the Housing Authority, the owners/landlords, and the participating families.

#### **Housing Authority Responsibilities**

- A. The Housing Authority will comply with the consolidated ACC, HUD regulations and other requirements, and this Administrative Plan.
- B. In administering the program, the Housing Authority must:
  1. Publish and disseminate information about the availability and nature of housing assistance under the program
  2. Explain the program to owners and families
  3. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration
  4. Affirmatively further fair housing goals and comply with equal opportunity requirements
  5. Make efforts to help disabled persons secure satisfactory housing
  6. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, certify each selected family, and provide housing information to

families selected

7. Determine who can live in the assisted unit at admission and during the family's participation in the program
8. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5
9. Inspect the unit before the assisted occupancy begins and annually inspect at least twenty five percent (25%) of the project-based units or as deemed appropriate by 24 CFR Part 983
10. Determine the amount of the housing assistance payment for a family
11. Determine the maximum rent to the owner and whether the rent is reasonable
12. Make timely housing assistance payments to an owner in accordance with the HAP contract
13. Examine family income, size, composition at admission, and annually during the family's participation in the program. The examination includes verification of income, assets, allowable deductions and other family information
14. Establish and adjust the utility allowance schedule
15. Administer and enforce the HAP contract with an owner, including taking appropriate action if the owner defaults (i.e., HQS violation)
16. Determine whether to terminate assistance to a participant family for violation of family obligations
17. Conduct informal reviews of certain decisions concerning applicants for participation in the program
18. Conduct informal hearings on certain decisions concerning participant families
19. Provide sound financial management of the program

Owner Responsibilities

A. The owner is responsible for performing all of the owner's obligations under the Agreement (new construction and rehabilitation only), HAP contract and the lease.

B. The owner is responsible for:

Performing all management and rental functions for the assisted unit, including determining suitability and selecting a tenant from the Housing Choice Voucher PBV waiting list to lease the unit.

- Renting eligible units solely to eligible PBV families.

- Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing information required under the HAP contract.
- Enforcing tenant obligations under the lease.
- Paying for utilities and services (unless paid by the family under the lease).
- For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.
- Collecting from the family:
  - Any security deposit required under the lease;
  - The tenant contribution (the part of rent to owner not covered by the housing assistance payment); and
  - Any charges for unit damage caused by the family.
- The owner must comply with 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

*Obligations of the Family*

This section states the obligations of a participant family under the program.

A. Supplying required information:

- The family must supply any information that the Housing Authority or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation.
- The family must supply any information requested by the Housing Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.

B. HQS breach caused by the family: The family is responsible for any HQS breach caused by the family or its guests.

C. Allowing the Housing Authority to inspect the unit: The family must allow the Housing Authority to inspect the unit at reasonable times and after at least a 24 hour notice.

- D. Violation of lease: The family may not commit any serious or repeated violation of the lease.
- E. Family Notice of Move or Lease Termination: The family must provide the owner at least a 30 day notice in writing, with a copy to the Housing Authority before the family moves out.
- F. Owner Eviction Notice: The family must promptly give the Housing Authority a copy of any owner eviction notice it receives.
- G. Use and Occupancy of the Unit:
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
  - Prior to approval of the composition of the assisted family residing in the unit, the owner must first authorize the addition of any household member. The Housing Authority will send the owner the appropriate form for the owner to sign. The Housing Authority must approve the composition of the assisted family residing in the unit. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request approval from the Housing Authority to add any other family member as an occupant of the unit. No other person may reside in the unit (except for a foster child/foster adult or live-in aide). If the Housing Authority has given approval, a foster child/foster adult or a live-in aide may reside in the unit.
  - The family must promptly notify the Housing Authority if any family member no longer resides 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 use of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.
  - The family must not sublease the unit.
  - The family must not assign the lease or transfer the unit.
- H. Absence from the Unit: The family must supply any information or certification requested by the Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any requested information or certification on the purposes of family absences. The family must cooperate with the Housing Authority for this purpose. The family must promptly notify the Housing Authority of its absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to thirty (30) days. The family must request permission from the Housing Authority for absences exceeding thirty (30) days. The Housing Authority will make a determination within five (5) business days of the request. An authorized absence may not exceed 180 days. Any family absent for more than thirty (30) days without authorization will be terminated from the PBV Program.

Authorized absences may include, but are not limited to:

- Prolonged hospitalization
- Absences beyond the control of the family (i.e., death in the family, other family member illness)
- Other absences that are deemed necessary by the Housing Authority

- I. Interest in the Unit: The family may not own or have any interest in the unit.
- J. Fraud and Other Program Violations: The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
- K. Crime by Family Members: The members of the family may not engage in drug-related criminal activity or other violent criminal activity.
- L. Other Housing Assistance: An assisted family or members of the family, may not receive Housing Choice Voucher PBV assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

### **Briefing Types and Required Attendance**

A full HUD required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted . Families who attend a briefing and still have the need for individual assistance will be referred to the Compliance Supervisor and Inspectors.

The purpose of the briefing is to explain to families how the program works and the documents in the voucher holder's packet so that they are fully informed about the program. This will enable them to utilize the program to their advantage.

### **Determining Family Unit (Voucher) Size**

The Housing Authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The Housing Authority's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. For subsidy standards, an adult is a person 18 years old or older.

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

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

The Housing Authority may approve an additional bedroom for medical equipment if the need is documented by a health care provider in accordance with PIH Notice 2919-51. The actual

equipment in the extra bedroom will be verified by the Housing Authority during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the Housing Authority must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification.

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

- Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
- Adults of different generations will have separate bedrooms.
- Single person families shall be allocated a zero or a one bedroom voucher.

**Guidelines for Determining Bedroom Size**

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

**Overcrowded, Under-Occupied and Accessible Units (PIH 2011-54)**

The Housing Authority subsidy standards determine the appropriate size unit for the family size and composition. If the Housing Authority determines that a family is occupying a:

- Wrong-size unit; or
- Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the Housing Authority must promptly notify the family and the owner of this determination and of the Housing Authority's offer of continued assistance in another unit pursuant to the following:
  - PBV assistance in an appropriate size unit (in the same building or in another

- building);
- Other project based housing assistance (i.e. by occupancy of a public housing unit); or
- Tenant based rental assistance under the voucher program.

## **Rent**

The Housing Authority contract with the owner sets the rent amount for each unit with project-based assistance. The amount of the rent may not exceed the lower of the applicable maximum level, as explained below, or the reasonable rent in the light of the rents charged for comparable unassisted units in the area.

To allow an owner to charge more than the payment standard because the rent is reasonable would result in limiting the families whom would be eligible to live in the unit. Conceivably, a family interested in the unit would be ineligible if the family's portion of the rent exceeded forty percent 40%. The idea of project basing units is to assure affordable housing for families and allowing the owner to have rents higher than the payment standard defeats the assurance of affordable housing.

If the unit under consideration is financed with Low Income Housing Tax Credits (LIHTC), the rents will be subject to a special exception. If an LIHTC development is located outside a qualified census tract, the rent may be as high as the rent charged for comparable units in the development with tax credit subsidies but without additional rental assistance. That is, if the rent for an LIHTC project is higher than the maximum voucher payment standard, the rent allowed for project basing the units may be above the payment standard and up to the amount charged in the other LIHTC financed units.

A rent increase during the term of the contract has to be approved by the Housing Authority. The family share of the rent for the project-based vouchers remains at thirty percent (30%) of the adjusted income for rent (subject to the same exceptions in the tenant-based voucher program).

## **Annual Recertification/Reexamination**

Families are required to be recertified at least annually. Income limits are not used as a test for continued eligibility at recertification.

### **Reexamination Notice to the Family**

The Housing Authority will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview. If requested as a reasonable accommodation by a person with a disability, the Housing Authority will provide the notice in an accessible format. The Housing Authority will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

The Housing Authority's procedure for conducting annual recertifications will be:

- An eligibility package will be mailed to the resident at least sixty (60) days prior to the recertification month. This package will include all required eligibility forms for the family to review, sign and return within a specific time frame. In addition, the package will provide a list of necessary third party verification(s) needed for



continued assistance. If the package is not returned, is incomplete, or the family requests assistance, a follow-up letter, a telephone interview or an office interview will be scheduled.

- Under extreme circumstances, with the approval of the Leasing Manager, on-site interviews will be considered.

#### Completion of Annual Recertification

The Housing Authority will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least thirty (30) days before the scheduled date of the change in family rent.

#### Persons with Disabilities

Persons with disabilities who are unable to come to the office will be granted an accommodation by conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

#### Collection of Information

The Housing Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

The family will be responsible to complete the recertification packet.

The Leasing Specialist will review the returned eligibility package provided by the family and enter the information into the database from the recertification package. In addition, all third party verifications will be reviewed and verified. The family is required to complete and sign a Personal Declaration Form.

#### Requirements

All adult household members will be required to complete and sign the recertification package.

#### Failure to Respond to Notification to Recertify

If the family fails to return the recertification package or fails to provide required information, a follow-up letter or a documented telephone call will be conducted.

After two attempts in contacting the family and all efforts have been exhausted, the eligibility worker will send the family a notice of termination and offer them an informal hearing.

Exceptions to these policies may be made by the Leasing Manager if the family is able to document an emergency situation that prevented them from providing verification or if requested as a reasonable accommodation for a person with a disability.

#### Documents Required From the Family

In the notification letter to the family, the Housing Authority will include instructions for the family to provide the following:

1. Documentation of income or no income for all family members;
2. Documentation of all assets;
3. Documentation of any deductions/allowances;
4. Documentation to support claims;

5. Personal Declaration Form completed by head of household;
6. Birth certificate, picture I.D. and Social Security cards; and
7. Three (3) months current rent receipts.

#### Verification of Information

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

#### Tenant Rent Increases

If tenant rent increases, a thirty (30) day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty (30) days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty (30) day notice.

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

#### Tenant Rent Decreases

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

#### **Reporting Interim Changes**

Program participants must report all changes in household composition within thirty (30) days of the change. This includes additions due to birth, adoption and court-awarded custody. The family must obtain approval from the landlord and the Housing Authority prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The Housing Authority will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the HAP and family unit size.

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

#### Interim Reexamination Policy

The Housing Authority will not conduct interim reexaminations when families have an increase in monthly adjusted income of \$200 or less, other than when a new member is added to the household, provided the information was provided within thirty (30) days of the change. Participants in the Family Self Sufficiency (FSS) program are exempt from this rule as increases in income will generate a change in their escrow balance. Families will be required to report all increases in income/assets within thirty (30) days of the increase.

#### Decreases in Income

Participants may report a decrease in income and other changes, which would reduce the amount

of tenant rent, such as an increase in allowances or deductions. The Housing Authority must calculate the change if a decrease in income is reported.

Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month. If reported after the fifteenth (15<sup>th</sup>) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported. If a tenant requests a hardship to the written notification requirement of the interim policy, the Director of Rental Assistance or his or her designee may approve such request.

#### Housing Authority Errors

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

#### **Housing Quality Standards (HQS) Requirement**

Participating project-based units must meet or exceed HQS prior to entering into a HAP contract. The participating unit must require \$999 or less in rehabilitation costs to meet HQS in order to be eligible for participation in the project-based existing program.

Once a project-based unit is under a HAP contract, the Housing Authority will inspect a minimum of 25% of the units within a site/development to determine annual HQS compliance. Any time that significant fail items are identified, the Housing Authority will inspect all units within that project annually.

#### **Family Choice to Move with Continued Assistance**

A family who resides in a project-based unit for at least twelve (12) months may move with continued assistance with a tenant based Housing Choice Voucher or its equivalent. This only applies to project-based vouchers that are under lease after January 16, 2001.

If the family wishes to move, but no voucher is available at that time, the family will be given the next available voucher, ahead of other families on the waiting list. Targeted vouchers (i.e., Family Unification Program) cannot be used for this purpose.

Families that reside in a unit with PBV assistance for at least twelve (12) months can exercise the portability feature within the guidelines for administration of the tenant-based Housing Choice Voucher Program.

The above policies do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move. A Housing Authority may not terminate assistance if the family, with or without prior notification to the Housing Authority, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence,

dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

If a family breaks up as a result of an occurrence of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, the PHA may offer the victim the opportunity for continued tenant-based rental assistance.

# Chapter 23

## FAMILY SELF-SUFFICIENCY

### INTRODUCTION

**T**he purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of the Housing Choice Voucher and Public Housing programs with public and private resources to enable families to achieve economic independence and self-sufficiency.

**A. HISTORICAL PROGRAM REQUIREMENTS [24 CFR 984.105]**

Beginning in Fiscal Year (FY) 1993, all Housing Authorities receiving new increments of Section 8 Certificates and Vouchers or funds for new public housing rental units had to implement an FSS program unless granted an exception by HUD. For the Public Housing and Housing Choice Voucher programs, the minimum FSS program size that must be established and operated is cumulative and is based on the number of new units funded in FY 1993 and subsequent years plus the number of any FY 1991 and 1992 FSS Incentive Award Units.

**B. ACTION PLAN [24 CFR 984.201]**

The Housing Authority has a HUD-approved Action Plan that complies with the requirements of this plan. The Action Plan describes the policies and procedures of the Housing Authority for operation of a local FSS program. The Action Plan was developed by the Housing Authority in consultation with the Executive Director and the Program Coordinating Committee (PCC) for the FSS program. Following HUD's initial approval of the Action Plan, no further approval of the Action Plan is required unless the Housing Authority proposes to make policy changes or increase the size of the mandatory FSS programs.

**C. PROGRAM COORDINATING COMMITTEE [24 CFR 984.202]**

The Housing Authority has established a PCC whose functions are to assist the Housing Authority in securing commitments of public and private resources for the operation of the FSS program within the Housing Authority's jurisdiction, including assisting with the Action Plan. Memberships for the PCC are defined in the Action Plan.

**D. FAMILY SELECTION PROCEDURES [24 CFR 984.203]**

Any family receiving housing assistance through the Public Housing or the Housing Choice Voucher Program may to enroll in the FSS program without consideration of race, color, religion, sex, disability, familial status or national origin. A family may participate in the Housing Choice Voucher FSS program only once.

**E. SUPPORTIVE SERVICES [24 CFR 984.204]**

The Housing Authority may, subject to the approval of HUD, make available common areas in public housing to provide supportive services under the FSS program.

**F. CONTRACT OF PARTICIPATION [24 CFR 984.303]**

Families selected to participate in the FSS program must enter into a Contract of Participation (COP) with the Housing Authority. The COP must be signed by the head of the family. The COP includes the terms and conditions of the FSS program, including the responsibilities of the family and the Housing Authority. The COP term is five (5) years; but the family may request an extension for up to two (2) years. This request must be in writing and should include a description of the need for the extension. The extension may be granted by the Director of Rental Assistance, the Asset Manager or designee provided there is good cause.

The COP is accompanied by the Individual Training and Services Plan (ITSP), which outlines specific interim and final goals and deadlines established by the family and approved by the Housing Authority which measures the family's progress toward fulfilling its obligations under the COP. The Housing Authority must establish a specific goal for families receiving welfare assistance to become free of such assistance and remain free at least one year before the expiration of the term of the contract. The head of the family is required to seek and maintain suitable employment during the term of the COP. The family and the Housing Authority may

mutually agree to modify the COP with respect to the individual training and services plan, the COP term, and designation of the head of the family. Modifications will be approved by the Director of Rental Assistance, the Asset Manager or designee.

The COP is considered complete and the family is considered a successful graduate from the program if the family has fulfilled all obligations on or before the expiration of the COP term, or 30 percent (30%) of the monthly adjusted income of the FSS family equals or exceeds the existing housing fair market rent for the size of the unit for which the family qualifies.

The COP will be automatically terminated if the family's Housing Choice Voucher or public housing lease is terminated. The COP may be terminated if the family and the Housing Authority consent to do so, the family fails to meet their obligations under the COP, the family withdraws from the FSS program, such other act as is deemed inconsistent with the purpose of the FSS program, or operation of the law.

**G. ESCROW ACCOUNT [24 CFR 984.305]**

The Housing Authority will deposit FSS account funds for participating families, in a single account, according to increases in earned income resulting in an increase in the family's share of rent. The Housing Authority must make a report, at least annually, to the family on the status of the account. The Housing Authority will perform an escrow calculation on the HUD Escrow Calculation worksheet at each annual reexamination or interim reexamination to determine if the family is entitled to an escrow deposit.

The Housing Authority will not make any additional payments to the FSS escrow account when the family has completed the COP or when the COP is terminated.

**H. ESCROW DISBURSEMENT [24 CFR 984.305]**

When the family successfully completes their COP, the head of the family shall be paid the amount in the FSS account. The family must submit a certification to the Housing Authority that no member of the FSS family is a recipient of welfare assistance for at least twelve (12) consecutive months before the contract expires. The Housing Authority will conduct a third party verification to confirm that the family is free of welfare assistance.

If the Housing Authority determines that the family has fulfilled certain interim goals and needs some additional funds for purposes of completion of higher education, job training, improve credit, or to meet start-up expenses involved in the creation of a small business, the Housing Authority may permit the family to use some of the funds from the escrow account. The criteria for interim escrow disbursements is located in the Family Self Sufficiency Action Plan. The family must provide receipts to the Housing Authority to confirm payment.

The escrow account will be forfeited if the COP is terminated or the COP is completed but the family is receiving welfare assistance at the time the COP expires.

All escrow disbursements will be approved by the Director of Rental Assistance, the Asset Manager or designee.

**I. PORTABILITY REQUIREMENTS [24 CFR 984.306]**

An FSS family must lease an assisted unit for a minimum period of twelve (12) months after the effective date of the contract in the jurisdiction that is selected by the family for the FSS program. After the first twelve (12) months, the family may move outside the initial Housing Authority jurisdiction.

A relocating family may continue in the FSS program of the initial Housing Authority if the family demonstrates they are able to fulfill the COP requirements. If the receiving Housing Authority accepts the FSS family into their jurisdiction, the receiving Housing Authority will enter into a new COP with the family for the term on the remaining COP with the initial Housing Authority.

If the FSS family remains in the FSS program of the initial Housing Authority or enrolled in the FSS program of the receiving Housing Authority, the FSS account will be maintained by the initial Housing Authority. If the family is absorbed by the receiving Housing Authority, the initial Housing Authority will transfer the family's FSS account to the receiving Housing Authority.

**J. REQUIREMENT TO ATTEND**

All FSS family members age 18 years and over will be required to attend the scheduled annual and interim appointments. If the FSS members are unable to attend the appointment, they may request to reschedule the appointment.

If the FSS family members do not appear for the scheduled appointment, and has not rescheduled or made prior arrangements with the Housing Authority, the Housing Authority will reschedule a second appointment.

If the FSS family members fail to appear for the second appointment, and has not rescheduled or made prior arrangements, the Housing Authority will send the FSS family members a Notice of Proposed Termination letter from participating in the FSS program. The head of the family may continue participating in the FSS program unless they are the FSS member who failed to appear from the above mentioned appointments.

Exceptions to these policies may be made by the Director of Rental Assistance, the Asset Manager or designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

**K. APPEAL PROCESS**

If an applicant is denied admission into the FSS Program, an FSS family member is terminated based on his or her failure to meet the COP obligations, or the family is denied a COP extension, he or she can appeal the decision in writing within ten (10) business days to request an appeal hearing. An appeal hearing will be scheduled within ten (10) business days after the receipt of the written request.

An employee of the Housing Authority directly or indirectly involved in the administration of the FSS Program or other public official will conduct the hearing. The person conducting the hearing will not be directly involved in the day to day operation of the Housing Authority's FSS Program. The FSS Coordinator will be available for questions during the appeal hearing. At the hearing, the family will have the opportunity to question the basis for the FSS Coordinator's



determination. The family will be notified in writing of the decision of the appeal within ten (10) business days of the appeal hearing.

**L. REINSTATEMENT POLICY**

Persons who wish to leave the FSS Program may do so at any time. Reinstatement of that person will not be permitted unless an unexpected hardship has occurred. Exceptions will be reviewed by the Director of Rental Assistance, the Asset Manager or designee.

Persons who are terminated for non-compliance will not be permitted to come back onto the FSS program.

# Chapter 24

## VETERANS AFFAIRS SUPPORTIVE HOUSING PROGRAM (VASH) FEDERAL REGISTER VOL. 77, NO. 57

### A. BACKGROUND

The HUD-VASH program combines HCV rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA) at its medical centers and within the community. Ongoing VA case management, health, and other supportive services will be made available to homeless veterans at Veterans Affairs Medical Center supportive services across the nation. The HUD-VASH HCV program is administered in accordance with the HCV tenant-based rental assistance regulations. However, the Act allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program to be necessary for the effective delivery and administration of the HUD-VASH program. In addition, the Housing Authority may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program. The Housing Authority will accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and for proof-of-age purposes for veterans applying for or participating in the HUD VASH program. These documents will be accepted in lieu of birth certificates or other required documentation. If photo identification is required, VA issued photo identification cards will be accepted by the Housing Authority in lieu of another type of government issued photo identification. These cards may also be used to verify SSNs and date of birth.

Income-targeting requirements of section 16(b) of the 1937 Act, as well as 24 CFR 982.201(b)(2), do not apply for HUD-VASH families. To expedite the leasing process, Housing Authority may pre-inspect available units that veterans may be interested in leasing, in order to maintain a pool of eligible units. However, the veteran must be free to select his/her unit and cannot be steered to these units. The Housing Authority has adopted the published HUD-VASH guidelines and will continue to develop separate policy documents for the HUD-VASH program as needed.

### B. VASH CASE MANAGEMENT REQUIREMENTS

As a condition of HCV rental assistance, a HUD-VASH eligible family must receive case management services from the local VAMC as published in the Federal Register, Vol. 77, No. 57, dated Friday, March 23, 2012. A HUD-VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC. However, a VAMC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such case, and at its option, the Housing Authority may offer the family continued HCV assistance through one of its regular vouchers, to make available the HUD-VASH voucher for another eligible family referred by the VAMC. If the Housing Authority has no available vouchers, the family will retain its HUD-VASH voucher until such time as the Housing Authority has an available voucher for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

**C. INCOME ELIGIBILITY (24 CFR 982.201**

The Housing Authority must determine income eligibility for HUD–VASH families in accordance with 24 CFR 982.201. Income-targeting requirements of section 16(b) of the 1937 Act, as well as 24 CFR 982.201(b)(2), do not apply for HUD–VASH families so that Housing Authorities can effectively serve the eligible population specified in the various appropriations acts; that is, homeless veterans, who may be at a variety of income levels, including low income. The Housing Authority may, however, choose to include the admission of extremely low-income HUD–VASH families in its income targeting numbers for the fiscal year in which these families are admitted. In conformance with normal program rules, PHAs may not deny admission to a family with zero income and must consider hardship circumstances before charging a minimum rent in accordance with 24 CFR 5.630(b).

**D. INITIAL TERM OF ASSISTANCE (24 CFR 982.303(a)**

Recognizing the challenges that HUD– VASH participants may face with their housing search, HUD–VASH vouchers must have an initial search term of at least 120 days. The initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days. Any extensions, suspensions, and progress reports will remain, but will apply after the minimum 120-day initial search term.

Under the HCV program, voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice.

**E. PORTABILITY- WHILE RECEIVING VA CASE MANAGEMENT (PIH 2011-53(HA))**

A HUD-VASH family can move within the VAMC's area as long as case management can still be provided, as determined by the VA. The VA must always be consulted prior to a move to ensure that case management will continue to be provided. If the receiving PHA does not have a HUD-VASH program, they must bill the initial PHA. If the receiving PHA does have a HUD-VASH program, they may absorb the family or bill the initial PHA. A HUD-VASH family can move outside of the VAMC’s catchment area if the referring VAMC confirms that the new VAMC has an available case management slot. The receiving PHA must have a HUD-VASH program and the HUD-VASH family must be absorbed.

If a HUD-VASH family wishes to move under portability and the Veteran no longer requires case management, they do not need to move to a community in which case management can be provided. The receiving PHA does not need to be a HUD-VASH PHA, and they may choose to bill the initial PHA or absorb the Veteran with a regular voucher. If they choose to bill the initial PHA, they must enter/maintain “VASH” on line 2n of form HUD-50058.

**F. TERMINATION OF ASSISTANCE**

HUD has not established any alternative requirements for termination of assistance for HUD–VASH participants. However, prior to terminating HUD–VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) and consider all relevant circumstances of the specific case, including granting reasonable accommodations for persons with disabilities in accordance with 24 CFR part 8, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance. In addition, a HUD–VASH participant family must not be terminated after admission, for a circumstance or activity that occurred before

admission and was known to the PHA, but could not be considered at the time of admission due to the HUD– VASH Operating Requirements. The Housing Authority can terminate the family’s assistance only for program violations that occur after the family’s admission to the voucher program.

#### **G. DISCHARGE FROM THE HUD-VASH PROGRAM**

Graduation from case management is a goal of the HUD-VASH program in order to help the Veteran achieve optimal independent functioning and the ability to live independently in the community. Some Veterans are able to achieve this goal more quickly than others. Case managers, in consultation with the Veteran, determine if the Veteran achieves this milestone and may then discharge the Veteran from the case management portion of the program.

If a HUD-VASH participant or family no longer needs case management, as determined by the VA case manager, the family is still eligible for rental assistance under the tenant-based HCV Program. In cases where case management is no longer needed, the Housing Authority can use one of its own vouchers, if available, to continue assisting this family and free up a voucher for another HUD-VASH eligible family. If a tenant-based voucher is not available, the family continues utilizing the HUD-VASH voucher. If a HUD-VASH voucher is switched from a HUD-VASH voucher to a tenant-based voucher, the family is not subject to the Housing Authority’s waiting list because the family is already a participant in the Housing Authority’s HCV tenant-based program.

Some Veterans may not discharge in a successful manner. If a Veteran refuses to participate in the case management portion of the program, the voucher can be revoked by the Housing Authority following the applicable regulations and processes. The case manager, as much as possible, works to link the Veteran with treatment or resources, as appropriate to the Veteran’s individual needs.

# Chapter 25

## Violence Against Women Reauthorization Act of 2013 (VAWA 2013)

### [24 CFR Part 5 Subpart L]

This Chapter addresses the protections for victims of domestic violence, dating violence, sexual assault, or stalking who are applying for, or are the beneficiaries of, assistance under a HUD program covered by the Violence Against Women Act (VAWA), as amended. Notwithstanding the title of the statute, protections are not limited to women but cover victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. Consistent with the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a), victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.

The requirements of VAWA that are incorporated into the Housing Choice Voucher HAP Contract and Tenancy Addendum are as follows:

- An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for termination of assistance, tenancy, or occupancy rights of a victim of abuse (section 8(o)(7)(C) of the U.S. Housing Act of 1937).
- Criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is 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 an affiliated individual of the tenant is the victim or threatened victim of that abuse (section 8(o)(7)(D)(i) of the U.S. Housing Act of 1937).
- Notwithstanding the VAWA restriction on admission, occupancy or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a Housing Authority may terminate assistance to, or an owner or manager may “bifurcate” a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members of others. This action may be taken without evicting, removing, terminating assistance to the occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State and local law for the termination of leases or assistance under the Housing Choice Voucher Program (section 8(o)(7)(D)(ii) of the U.S. Housing Act of 1937).
- Nothing in section 8(o)(7)(D)(i) may be construed to limit the authority of a public housing agency, owner or manager, when notified, to honor court orders addressing rights of access 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 in cases where a family breaks up (section 8(o)(7)(D)(iii) of the U.S. Housing Act of 1937).

- Nothing in section 8(o)(7)(D)(i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager or public housing agency does not subject an individual is or has been a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding stand than other tenants in determining whether to evict or terminate (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937).
- Nothing in section 8(o)(7)(D)(i) shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than section 8(o)(7)(D)(i) for victims of domestic violence, dating violence, sexual assault, or stalking (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937).

### **A. Definitions**

As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship;
  - The type of relationship; and
  - The frequency of interaction between the persons involved in the relationship
- The term *sexual assault* means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- The term *stalking* means engaging in a course of conduct directed at a specific

person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

- The term *affiliated individual* means, with respect to an individual:
  - A spouse, parent, brother, or sister, or child of that individual, or an individual to whom that individual stands in place of a parent; or
  - Any individual, tenant, or lawful occupant living in the household of that individual.
- The term *actual and imminent threat* consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.
- The term *bifurcate* means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.
- *Covered Housing Program* consists of the following HUD programs:
  - Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
  - Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
  - Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901 *et seq.*), with implementing regulations at 24 CFR part 574.
  - HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 *et seq.*), with implementing regulations at 24 CFR part 92.
  - Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 *et seq.*), including the Emergency Solutions Grants program (with implementing regulations at 24 CFR part 576), the Continuum of Care program (with implementing regulations at 24 CFR part 578), and the Rural Housing Stability Assistance program.
  - Multifamily Rental Housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate

(BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.

- Multifamily Rental Housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
- HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f) (with regulations at 24 CFR chapters VIII and IX), and the Section 8 Moderate Rehabilitation Single Room Occupancy (with implementing regulations at 24 CFR part 882, subpart H).
- The Housing Trust Fund (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).
- *Cover Housing Provider* refers to the individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities. The program-specific regulations for the covered housing programs identify the individual or entity that carries out the duties and responsibilities of the covered housing provider as set forth in part 5, subpart L. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be the same individual or entity.
  - For Project Based Voucher (PBV) program, “covered housing provider,” as such term is used in HUD's regulations in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) refers to the PHA or owner (as defined in 24 CFR 982.4), as applicable given the responsibilities of the covered housing provider as set forth in 24 CFR part 5, subpart L. For example, the PHA is the covered housing provider responsible for providing the notice of occupancy rights under VAWA and certification form described at 24 CFR 5.2005(a). In addition, the owner is the covered housing provider that may choose to bifurcate a lease as described at 24 CFR 5.2009(a), while the PHA is the covered housing provider responsible for complying with emergency transfer plan provisions at 24 CFR 5.2005(e).
- VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).



## **B. Notification**

### Housing Authority

The Housing Authority acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Housing Authority's policies. Therefore, if the Housing Authority makes a determination to deny admission to an applicant family, the Housing Authority will include in its notice of denial:

- A statement of the protection against denial provided by VAWA.
- A description of Housing Authority confidentiality requirements.
- A request that an applicant wishing to claim this protection submit to the Housing Authority documentation meeting the specifications below with her or his request for an informal hearing.

## **C. VAWA Protections (24 CFR 5.2005)**

### Notification of Occupancy Rights under VAWA and certification form

- A covered housing provider must provide to each of its applicants and HCV participants the notice of occupancy rights and the certification form as described
  - (i) A "Notice of Occupancy Rights under the Violence Against Women Act," as prescribed and in accordance with directions provided by HUD, that explains the VAWA protections under this subpart, including the right to confidentiality, and any limitations on those protections; and
  - (ii) A certification form, in a form approved by HUD, to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking, and that:
    - (A) States that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;
    - (B) States that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under this subpart meets the applicable definition for such incident under §5.2003; and
    - (C) Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.
- The "Notice of Occupancy Rights under the Violence Against Women Act," and certification form must be provided to an applicant or tenant no later than at each of the following times:

- (i) At the time the applicant is denied assistance or admission under a covered housing program;
- (ii) At the time the individual is provided assistance or admission under the covered housing program;
- (iii) With any notification of eviction or notification of termination of assistance; and
- (iv) During the 12-month period following *December 16, 2016*, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.

- The “Notice of Occupancy Rights under the Violence Against Women Act,” and certification form must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency, signed August 11, 2000, and published in the FEDERAL REGISTER on August 16, 2000 (at 65 FR 50121)).
- For the Housing Choice Voucher program under 24 CFR part 982, the project-based voucher program under 24 CFR part 983, the public housing admission and occupancy requirements under 24 CFR part 960, and renewed funding or leases of the Section 8 project-based program under 24 CFR parts 880, 882, 883, 884, 886, as well as project-based section 8 provided in connection with housing under part 891, the HUD-required lease, lease addendum, or tenancy addendum, as applicable, must include a description of specific protections afforded to the victims of domestic violence, dating violence, sexual assault, or stalking, as provided in this subpart.

#### Prohibited Basis for Denial of Termination of Assistance or Eviction

- An applicant for assistance or tenant assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.
- Termination *on the basis of criminal activity*. A tenant in a covered housing program may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if
  - (i) The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and

(ii) The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.

#### Construction of Lease Terms and Terms of Assistance

- An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:
  - (1) A serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or
  - (2) Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

#### Limitations of VAWA Protections

- Nothing in this section limits the authority of a covered housing provider, when notified of a court order, to comply with a court order with respect to:
  - (i) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
  - (ii) The distribution or possession of property among members of a household.
- Nothing in this section limits any available authority of a covered housing provider to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, the covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.
- Nothing in this section limits the authority of a covered housing provider to terminate assistance to or evict a tenant under a covered housing program if the covered housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to property of the covered housing provider would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the standards provided in the definition of “actual and imminent threat” in §5.2003.
- Any eviction or termination of assistance, as provided in paragraph (d)(3) of this section should be utilized by a covered housing provider only when there are no

other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

#### **D. Emergency Transfer Plan**

- For purposes of this section, the following definitions apply:
  - (i) *Internal emergency transfer* refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.
  - (ii) *External emergency transfer* refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.
  - (iii) *Safe unit* refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.
- The emergency transfer plan must provide that a tenant receiving rental assistance through, or residing in a unit subsidized under, a covered housing program who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:
  - (i) The tenant expressly requests the transfer; and
  - (ii)(A) The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
    - (B) In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.
- The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

- The emergency transfer plan must incorporate strict confidentiality measures to ensure that the covered housing provider does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.
- The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.
- The emergency transfer plan must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available, and these policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.
- The emergency transfer plan must describe reasonable efforts the covered housing provider will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available. The plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the covered housing provider's program or project, and a tenant who is seeking an external emergency transfer under VAWA into the covered housing provider's program or project. These policies may include:
  - (i) Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves; and
  - (ii) Outreach activities to organizations that assist or provide resources to victims of domestic violence, dating violence, sexual assault, or stalking.
- Nothing may preclude a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
- Where applicable, the emergency transfer plan must describe policies for a tenant who has tenant-based rental assistance and who meets the requirements of paragraph (e)(2) of this section to move quickly with that assistance.
- The emergency transfer plan may require documentation from a tenant seeking an emergency transfer, provided that:
  - (i) The tenant's submission of a written request to the covered housing provider, where the tenant certifies that they meet the criteria in paragraph (e)(2)(ii) of this section, shall be sufficient documentation of the requirements in paragraph (e)(2) of this section;

(ii) The covered housing provider may, at its discretion, ask an individual seeking an emergency transfer to document the occurrence of domestic violence, dating violence, sexual assault, or stalking, in accordance with §5.2007, for which the individual is seeking the emergency transfer, if the individual has not already provided documentation of that occurrence; and

(iii) No other documentation is required to qualify the tenant for an emergency transfer.

- The covered housing provider must make its emergency transfer plan available upon request and, when feasible, must make its plan publicly available.
- The covered housing provider must keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations. Requests and outcomes of such requests must be reported to HUD annually.

**E. Documentation (24 CFR 5.2007)**

Housing Authority

If an applicant or tenant represents to the covered housing provider that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking entitled to the protections under 24 CFR 5.2005 or remedies under 24 CFR 5.2009, the covered housing provider may request in writing the applicant or tenant submit within 14 business days :

- The certification form, or
- A document:
  - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional or mental health professional (collectively “professional”) from which the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003. . The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003 and signed by the applicant or tenant. .
- A record of a Federal, State, tribal, territorial, or local law enforcement agency or court documenting the domestic violence, dating violence, sexual assault, or stalking, or.

- At the discretion of the covered housing provider, a statement or other evidence provided by the applicant or tenant.

## **F. Time Frame for Submitting Documentation**

### Housing Authority

If an applicant or tenant does not provide the documentation requested within 14 business days after the date that the tenant receives a request in writing for such documentation from the covered housing provider, nothing in 24 CFR 5.2005 or 24 CFR 5.2009, which addresses the protections of VAWA, may be construed to limit the authority of the covered housing provider to:

- (A) Deny admission by the applicant or tenant to the covered housing program;
- (B) Deny assistance under the covered housing program to the applicant or tenant;
- (C) Terminate the participation of the tenant in the covered housing program;  
or
- (D) Evict the tenant, or a lawful occupant that commits a violation of a lease.

A covered housing provider may, at its discretion, extend the 14-business-day deadline.

## **Remedies Available to Victims**

*Lease bifurcation.* The Housing Authority may terminate assistance to a household member who engages in criminal activity relating to domestic violence, dating violence, sexual assault or stalking against an affiliated individual or other individual:

- Reasonable time to establish eligibility for assistance or find alternative housing*
  - *Applicability.* The reasonable time to establish eligibility under a covered housing program or find alternative housing is specified in the *Reasonable time to establish assistance or find alternative housing* section below, or alternatively in the program-specific regulations governing the applicable covered housing program. Some covered housing programs may provide different time frames than are specified in the *Reasonable time to establish assistance or find alternative housing* section below, and in such cases, the program-specific regulations govern.
  - *Reasonable time to establish assistance or find alternative housing.*
    - If a covered housing provider exercises the option to bifurcate a lease as provided in the *Applicability* section

above, and the individual who was evicted or for whom assistance was terminated was the eligible tenant under the covered housing program, the covered housing provider shall provide to any remaining tenant or tenants that were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to:

- Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of; or
  - Establish eligibility under another covered housing program; or
  - Find alternative housing.
- The 90-calendar-day period provided by *Reasonable time to establish assistance or find alternative housing* section above will not be available to a remaining household member if the statutory requirements for the covered housing program prohibit it. The 90-day calendar period also will not apply beyond the expiration of a lease, unless this is permitted by program regulations. The 90-calendar-day period is the total period provided to a remaining tenant to establish eligibility under the three options provided in this *Reasonable time to establish eligibility for assistance or find alternative housing*.
  - The covered housing provider may extend the 90-calendar-day period in the *Reasonable time to establish eligibility for assistance or find alternative housing* section up to an additional 60 calendar days, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond expiration of the lease

*Efforts to promote housing stability for victims of domestic violence, dating violence, sexual assault, or stalking.* Covered housing providers are encouraged to undertake whatever actions permissible and feasible under their respective programs to assist individuals residing in their units who are victims of domestic violence, dating violence, sexual assault, or stalking to remain in their units or other units under the covered housing program or other covered housing providers, and for the covered housing provider to bear the costs of any transfer, where permissible.



## **G. Confidentiality Requirements**

All information provided to a covered housing provider including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking (confidential information) shall be maintained in strict confidence by the Housing Provider.

- The covered housing provider shall not allow any individual administering assistance on behalf of the covered housing provider or any persons within their employ (*e.g.*, contractors) or in the employ of the covered housing provider to have access to confidential information unless explicitly authorized by the covered housing provider for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.
- The covered housing provider shall not enter confidential information described in of this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:
  - Requested or consented to in writing by the individual in a time-limited release;
  - Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
  - Otherwise applicable by law.

### Effect On Other Laws (24 CFR 5.2011)

- Nothing in this subpart shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.
- All applicable fair housing and civil rights statutes and requirements apply in the implementation of VAWA requirements. See 24 CFR 5.105(a).

# GLOSSARY

## ACRONYMS USED IN SUBSIDIZED HOUSING

<b>AAF</b>	Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.
<b>ACC</b>	Annual Contributions Contract
<b>ACOP</b>	Admissions and Continued Occupancy Policy
<b>ADA</b>	Americans with Disabilities Act
<b>AHAP</b>	Agreement to enter into a Housing Assistance Payment Contract
<b>AMI</b>	Area Median Income
<b>CDBG</b>	Community Development Block Grant
<b>CFR</b>	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.
<b>COP</b>	Contract of Participation
<b>CPI</b>	Consumer Price Index. The CPI is published monthly by the Department of Labor as an inflation indicator.
<b>EID</b>	Earned Income Disallowance
<b>EITC</b>	Earned Income Tax Credit
<b>EIR</b>	Earned Income Range
<b>EIV</b>	Enterprise Income Verification System
<b>ELI</b>	Extremely Low Income
<b>FAQ</b>	Frequently Asked Questions
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Fair Housing Act
<b>FHA</b>	Federal Housing Administration
<b>FHEO</b>	Fair Housing and Equal Opportunity

<b>FICA</b>	Federal Insurance Contributions Act - Social Security taxes
<b>FMR</b>	Fair Market Rent
<b>FSS</b>	Family Self Sufficiency
<b>FUP</b>	Family Unification Program
<b>FTS</b>	Full Time Student
<b>FR</b>	Federal Register
<b>FY</b>	Fiscal Year
<b>FYE</b>	Fiscal Year End
<b>GAO</b>	Government Accounting Office
<b>GR</b>	Gross Rent
<b>HACSJ</b>	Housing Authority of the County of San Joaquin
<b>HAP</b>	Housing Assistance Payment
<b>HCDA</b>	Housing and Community Development Act
<b>HCVP</b>	Housing Choice Voucher Program
<b>HOH</b>	Head of Household
<b>HOP</b>	Homeownership Option Program
<b>HQS</b>	Housing Quality Standards
<b>HUD</b>	The Department of Housing and Urban Development or its designee.
<b>HURRA</b>	Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations
<b>IPA</b>	Independent Public Accountant
<b>IRS</b>	Internal Revenue Service
<b>IRA</b>	Individual Retirement Account
<b>ITSP</b>	Individual Training and Services Plan
<b>LAP</b>	Language Access Plan
<b>LEP</b>	Limited English Proficiency

<b>LI</b>	Low Income
<b>LIHTC</b>	Low Income Housing Tax Credit
<b>MOA</b>	Memorandum of Agreement
<b>MOU</b>	Memorandum of Understanding
<b>MOV</b>	Methods of Verification
<b>MSA</b>	Metropolitan Statistical Area established by the U.S. Census Bureau
<b>OIG</b>	Office of the Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PBA</b>	Project Based Assistance
<b>PBC</b>	Project Based Contract
<b>PBV</b>	Project Based Voucher
<b>PCC</b>	Program Coordinating Committee
<b>PHA</b>	Public Housing Agency
<b>PIH</b>	Public and Indian Housing
<b>PII</b>	Personally Identifiable Information
<b>PMSA</b>	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
<b>PS</b>	Payment Standard
<b>QC</b>	Quality Control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998
<b>RAB</b>	Resident Advisory Board
<b>RAD</b>	Rental Assistance Demonstration
<b>REAC</b>	Real Estate Assessment Center
<b>RTA</b>	Request for Tenancy Approval
<b>RFP</b>	Request for Proposal
<b>RRP</b>	Rental Rehabilitation Program
<b>SAVE</b>	Systematic Alien Verification for Entitlements

<b>SEMAP</b>	Section Eight Management Assessment Program
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental Security Income
<b>SSN</b>	Social Security Number
<b>SRO</b>	Single Room Occupancy
<b>SWICA</b>	State Wage Information Collection Agency
<b>TANF</b>	Temporary Assistance for Needy Families
<b>TR</b>	Tenant Rent
<b>TDD</b>	Telecommunications Device for the Deaf
<b>TTP</b>	Total Tenant Payment
<b>TTY</b>	TeleTYpe
<b>UA</b>	Utility Allowance
<b>USCIS</b>	U.S. Citizenship and Immigration Services (formerly INS)
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront Income Verification
<b>URP</b>	Utility Reimbursement Payment
<b>VASH</b>	Veterans Affairs Supportive Housing
<b>VAWA</b>	Violence Against Women Reauthorization Act of 2013
<b>VG</b>	Verification Guidance
<b>VLI</b>	Very Low Income
<b>WIC</b>	Women and Infant Children

## **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 Housing Authority governing its administration of the Housing Choice Voucher tenant-based programs. The Administrative Plan and any revisions must be approved by the Housing Authority's board and a copy submitted to HUD as a supporting document to the Housing Authority Agency Plan.

### **ABSORPTION**

In portability, the point at which a receiving Housing Authority stops billing the initial Housing Authority for assistance on behalf of a portability family. The receiving Housing Authority uses funds available under the receiving Housing Authority's consolidated Annual Contributions Contract (ACC).

### **ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE")**

Account established by HUD from amounts by which the maximum payment to the Housing Authority under the consolidated ACC (during a Housing Authority 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 Housing Authority for administration of the program.

### **ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve")**

Account established by Housing Authority from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

### **ADMISSION**

The effective date of the first Housing Assistance Payment (HAP) contract for a family (first day of initial lease term). This is the point when the family becomes a participant in the program.

### **ADULT**

Any person age 18 years or over.

### **ANNUAL BUDGET AUTHORITY**

The maximum annual payment by HUD to a Housing Authority for a funding increment.

### **ANNUAL CONTRIBUTIONS CONTRACT (ACC)**

A written contract between HUD and a Housing Authority. Under the contract, HUD agrees to provide funding for operation of the program, and the Housing Authority agrees to comply with HUD requirements for the program.

**AFFILIATED INDIVIDUAL**

In accordance with VAWA 2013

- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any individual, tenant, or lawful occupant living in the household of that individual.

**ANNUAL INCOME**

The anticipated total annual income of an eligible family from all sources for the twelve (12) month period following the date of determination of income, computed in accordance with the regulations.

**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 LIVING FACILITY**

An assisted living facility is a public facility, proprietary facility, or facility of a private nonprofit corporation that:

- Is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located;
- Makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which make available to residents home health care services such as nursing and therapy; and
- Provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility.

Assisted living facilities may be referred to as residential care facilities, adult care facilities, congregate care facilities or group homes as long as they meet the requirements noted above.

**ASSISTED TENANT**

A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplements, Rental Assistance Payments, or HCVP 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 Congress for payment to Housing Authority's under the program. For each funding increment in a Housing Authority program, budget authority is the maximum amount that may be paid by HUD to the Housing Authority over the ACC term of the funding increment.

**CHILD CARE EXPENSES**

Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

**CO-HEAD**

An individual in the household who is equally responsible for the lease with the head of household. A family never has a co-head and a spouse and a co-head is never a dependent.

**COMMON SPACE**

In shared housing: space available for use by the assisted family and other occupants of the unit.

**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 Housing Authority is located.

**CONTINUOUSLY ASSISTED**

An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the certificate or voucher program.

**CONTRACT**

(See Housing Assistance Payments Contract.)

**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.

**DEPENDENT**

A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a disabled person or handicapped person, or is a full-time student 18 years of age or over.

**DISABILITY ASSISTANCE EXPENSE**

Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

**DISABLED PERSON**

A person who is any of the following:



A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C.423);

A person who has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that ability to live independently could be improved by more suitable housing conditions; or

A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

**DISABLED FAMILY**

A family whose head, including co-head, spouse, or sole member is a person with a disability.

**DISPLACED PERSON/FAMILY**

A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.

**DOMICILE**

The legal residence of the household head or spouse as determined in accordance with State and local law.

**DRUG**

Drug is a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

**DRUG-RELATED CRIMINAL ACTIVITY**

The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

**DRUG TRAFFICKING**

The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**ELDERLY HOUSEHOLD**

A family whose head, including co-head, spouse or sole member is a person who is at least 62 years of age.

**ELDERLY PERSON**

A person who is at least 62 years of age.

**ELIGIBILITY INCOME**

On May 10, 1984, regulations deleted eligibility income because “annual income” is now used for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY**

A family is defined by the Housing Authority in this Administrative Plan, which is approved by HUD.

**EMANCIPATED MINOR**

A person under the age of 18 years of age who qualifies as an adult under state law.

**EXCEPTION RENT**

In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR (see Area Exception rent).

**EXCESS MEDICAL EXPENSES**

Any medical expenses incurred by elderly or disabled families only in excess of three percent (3%) of annual income which are not reimbursable from any other source.

**EXTREMELY LOW-INCOME FAMILY**

A very low income family whose annual income does not exceed 30% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

**FAIR MARKET RENT (FMR)**

The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

**FAMILY**

A person or group of persons, as determined by the Housing Authority consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program.

**FAMILY OF VETERAN OR SERVICE PERSON**

A family is a "family of veteran or service person" when: the veteran or service person is (a) 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 they were: (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 they are legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that they are a family member at the time of hospitalization and there still remains in the family at least two related persons.

**FAMILY SELF-SUFFICIENCY (FSS) PROGRAM**

The program established by the Housing Authority to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY SHARE**

The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE**

The size of the voucher issued to the family based on the Housing Authority's subsidy standards.

**FMR/EXCEPTION RENT LIMIT**

The fair market rent published by HUD headquarters. In the voucher program the Housing Authority may adopt a payment standard up to one hundred ten percent (110%) of the FMR.

**FOSTER CHILD CARE PAYMENT**

Payment to eligible households by State, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL-TIME STUDENT**

A person who is attending school or vocational training on a full-time basis.

**FUNDING INCREMENT**

Each commitment of budget authority by HUD to a Housing Authority under the consolidated ACC for the Housing Authority programs.

**GENDER IDENTITY**

Gender identity means actual or perceived gender-related characteristics.

**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.

**HAP CONTRACT**

(See "Housing Assistance Payments Contract")

**HEAD OF HOUSEHOLD**

The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSING AGENCY**

A state, country, municipality or other governmental entity or public body authorized to administer the program. The term "Housing Authority" includes an Indian Housing Authority (IHA).

**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 Housing Authority. The total assistance payment consists of a payment made to the owner for rent under the family's lease. An additional payment is made to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a Utility Reimbursement Payment (URP).

**HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT**

A written contract between a Housing Authority and an owner in the form prescribed by HUD headquarters, in which the Housing Authority agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING AUTHORITY ADMINISTRATIVE AND AGENCY PLAN**

The annual Administrative Plan and the 5-year Agency Plan as adopted by the Housing Authority and approved by HUD in accordance with part 903 of this chapter.

**HOUSING QUALITY STANDARDS (HQS)**

The HUD minimum quality inspection standards for housing assisted under the tenant-based programs.

**HUD REQUIREMENTS**

HUD requirements are issued by HUD headquarters as regulations, Federal Register notices or other binding program directives for all tenant-based housing.

**IMPUTED ASSET**

Assets disposed of for less than Fair Market Value during two (2) years preceding examination or reexamination.

**IMPUTED INCOME**

HUD passbook rate times the total cash value of assets. This calculation is used when assets exceed \$5,000.

**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. This amount is included in family annual income and therefore, reflected in the family rental contribution based on this income.

**INITIAL HOUSING AUTHORITY**

In portability, the term refers to both: A Housing Authority that originally selected a family that later decides to move out of the jurisdiction of the selecting Housing Authority; and a Housing Authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing Housing Authority.

**INITIAL PAYMENT STANDARD**

The payment standard at the beginning of the HAP contract term.

**INITIAL RENT TO OWNER**

The rent to owner at the beginning of the HAP contract term.

**INCOME**

Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**INCOME FOR ELIGIBILITY**

Gross annual income.

**INCOME TARGETING**

The HUD admissions requirement that Housing Authority's not admit less than the number required by law of families whose income does not exceed 30% of the area median income in a fiscal year.

**INDIAN**

Any person recognized as an Indian or Alaska Native by an Indian Tribe, the Federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA)**

A housing agency established either: by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law, providing specifically for housing authorities for Indians.

**INTEREST REDUCTION SUBSIDIES**

The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**JURISDICTION**

The area in which the Housing Authority 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 Housing Authority.

**LEASE ADDENDUM**

See Tenancy Addendum.

**LIVE-IN AIDE**

A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person and is not obligated for the support of the person. They would not be living in the unit except to provide necessary supportive services.

**LOCAL PREFERENCE**

A preference used by the Housing Authority to select among applicant families without regard to their federal preference status.

**LOW-INCOME FAMILY**

A family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the voucher program, HUD may establish income limits higher or lower than eighty percent (80%) of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

**MANUFACTURED HOME**

A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets HQS. A special housing type (see 24 CFR 982.620 and 982.621).

**MANUFACTURED HOME SPACE**

In a manufactured home space rental, the space is 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 an FHA insured/subsidized multi-family housing project 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 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 is given to elderly households only. These allowances are given when calculating adjusted income for medical expenses in excess of three percent (3%) of annual income.

**MEDICAL MARIJUANA**

Medical Marijuana refers to the use of cannabis or marijuana, including constituents of cannabis, THC and other cannabinoids, a physician recommended form of medicine or herbal therapy

**MINIMUM RENT**

An amount established by the Housing Authority between \$0 and \$50.

**MINOR**

A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MIXED FAMILY**

A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3).

**MONTHLY ADJUSTED INCOME**

1/12 of the Annual Income after allowances or Adjusted Income.

**MONTHLY INCOME**

1/12 of the Annual Income.

**NATIONAL**

A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NEAR-ELDERLY FAMILY**

A family whose head, including co-head, spouse, or sole member 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.

**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 not a citizen or a national of the United States.

**OCCUPANCY STANDARDS [Now referred to as Subsidy Standards]**

Standards established by a Housing Authority to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OWNER**

Any persons or entity having the legal right to lease or sublease a unit to a participant.

**PARTICIPANT**

A family that has been admitted to the Housing Authority's voucher program. The family becomes a participant on the effective date of the first HAP contract executed by the Housing Authority for the family (first day of initial lease term).

**PAYMENT STANDARD**

The maximum subsidy payment for a family (before deducting the family contribution). The Housing Authority sets a payment standard in the range from 90% to 110% of the current FMR/exception rent limit.

**PERSONS WITH DISABILITIES**

Individuals with any condition or characteristic that renders a person an individual with a handicap as defined in 24 CFR 8.2.

**PORTABILITY**

Renting a dwelling unit with Housing Choice Voucher tenant-based assistance outside the jurisdiction of the initial Housing Authority.

**PREMISES**

The building or complex in which the dwelling unit is located, including common areas and grounds.

**PRIVATE SPACE**

In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

**PROGRAM**

The Housing Choice Voucher tenant-based assistance program under 24 CFR Part 982.

**PROGRAM RECEIPTS**

HUD payments to the Housing Authority under the consolidated ACC, and any other amounts received by the Housing Authority 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)**

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 Housing Choice Voucher tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a Housing Authority) on October 21, 1998; or
- For any area outside the jurisdiction of a Housing Authority that is administering a tenant-based program, or where HUD determines that such Housing Authority is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**REASONABLE RENT**

A rent to owner that is not more than the 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 HOUSING AUTHORITY**

In portability, a Housing Authority that receives a family selected for participation in the tenant-based program of another Housing Authority. The receiving Housing Authority issues a voucher and provides program assistance to the family.

**RECERTIFICATION**

Also referred to as reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next twelve (12) months if there are no additional changes to be reported. There are annual and interim recertifications.

**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 Housing Authority preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

**RESIDENCY PREFERENCE AREA**

The specified area where families must reside to qualify for a residency preference.

**RESPONSIBLE ENTITY**

For Public Housing, Housing Choice Voucher assistance, project-based voucher assistance and moderate rehabilitation programs, the responsible entity means the Housing Authority administering the program under an ACC with HUD. For all other Housing Choice Voucher programs, the responsible entity means the Housing Choice Voucher owner.

**SECRETARY**

The Secretary of Housing and Urban Development.

**SECURITY DEPOSIT**

A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SEXUAL ORIENTATION**

Sexual Orientation means homosexuality, heterosexuality, or bisexuality.

**SERVICE PERSON**

A person in the active military or naval service (including the active reserve) of the United States.

**SINGLE PERSON**

A person living alone or intending to live alone.

**SPECIAL ADMISSION**

Admission of an applicant that is not on the Housing Authority 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).

**SPORADIC INCOME**

Income that is temporary, occasional and nonrecurring including gifts that are excluded from annual income.

**SPOUSE**

The husband or wife of the head of the household.

## **SUBSIDIZED PROJECT**

A multi-family housing project (with the exception of a project owned by a cooperative housing Mortgage Corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Housing Choice Voucher 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 Housing Authority 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 Housing Authority, from the time when the family submits a request for Housing Authority approval to lease a unit, until the time when the Housing Authority approves or denies the request. If the Housing Authority decides to allow extensions or suspensions of the voucher term, the Housing Authority Administrative Plan must describe how the Housing Authority determines whether to grant extensions or suspensions, and how the Housing Authority determines the length of any extension or suspension.

## **TENANCY ADDENDUM**

In the lease between the tenant and the owner, the lease language required by HUD.

## **TENANT**

The person or persons (other than a live-in aide) who execute the lease as lessee of the dwelling unit.

## **TENANT RENT**

The amount payable monthly by the family as rent to the unit owner (Housing Choice Voucher owner or Housing Authority in public housing).

**TOTAL TENANT PAYMENT (TTP)**

The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**TUITION**

Tuition is the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. Tuition and fees is further defined as the amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

**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 mean water, electricity, gas, other heating, and 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 Housing Authority or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

**UTILITY REIMBURSEMENT PAYMENT**

The amount the utility allowance exceeds the total tenant payment for the family occupying the unit.

**VACANCY LOSS PAYMENTS**

This applies to contracts effective prior to 10/2/95. When a family vacates its unit in violation of its lease, the owner is eligible for eighty percent (80%) of the contract rent for a vacancy period of up to one additional month (beyond the month in which the vacancy occurred) if the owner notifies the Housing Authority as soon as the owner learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**VERY LOW INCOME FAMILY**

A low-income family whose annual income does not exceed fifty percent (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 fifty percent (50%) of the median income

for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Housing Choice Voucher Program.

**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 there from under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY**

Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**VOUCHER HOLDER**

A family holding a voucher with an unexpired term (search time).

**VOUCHER PROGRAM**

The Housing Choice Voucher program.

**WAITING LIST ADMISSION**

An admission from the Housing Authority waiting list.

**WAITING LIST**

A list of families organized according to HUD regulations and Housing Authority policy that are waiting for subsidy to become available.

**WELFARE ASSISTANCE**

Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families.

**WELFARE RENT**

This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

## **GLOSSARY OF TERMS USED IN THE NON-CITIZENS RULE**

### **CHILD**

A member of the family other than the family head or spouse who is under the age of 18 years old.

### **CITIZEN**

A citizen or national of the United States.

### **EVIDENCE**

Evidence of citizenship or eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

### **HOUSING AUTHORITY**

A Public Housing Agency or an Indian Housing Authority or both.

### **HEAD OF HOUSEHOLD**

The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

### **HUD**

Department of Housing and Urban Development.

### **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.

### **NON-CITIZEN**

A person who is not a citizen or a national of the United States.

### **PUBLIC HOUSING AUTHORITY**

A housing authority that operates Public Housing.

### **RESPONSIBLE ENTITY**

The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the Housing Authority).

### **SECTION 214**

Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

**SPOUSE**

Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or “co-heads.” “Co-head” is a term recognized by some HUD programs, but not by public and Indian housing programs.

**USCIS**

U.S. Citizenship and Immigration Services.