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U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Housing Authority of the County of Monterey
File # ca033v01

PHA Plans

5 Year Plan for Fiscal Years 2005 - 2009
Annual Plan for Fiscal Year 2007

NOTE: THIS PHA PLANS TEMPLATE (HUD 50075) IS TO BE COMPLETED IN ACCORDANCE WITH INSTRUCTIONS LOCATED IN APPLICABLE PIH NOTICES

PHA Plan
Agency Identification

PHA Name: Housing Authority of the County of Monterey
PHA Number: CA033

PHA Fiscal Year Beginning: (mm/yyyy) 07/2007

PHA Programs Administered:

☒**Public Housing and Section 8** ☐**Section 8 Only** ☐**Public Housing Only**
Number of public housing units: 615 Number of S8 units: Number of public housing units:
Number of S8 units: 3869

☐PHA Consortia: (check box if submitting a joint PHA Plan and complete table)

Participating PHAs	PHA Code	Program(s) Included in the Consortium	Programs Not in the Consortium	# of Units Each Program
Participating PHA 1:				
Participating PHA 2:				
Participating PHA 3:				

Public Access to Information

Information regarding any activities outlined in this plan can be obtained by contacting: (select all that apply)

☒ Main administrative office of the PHA
☐ PHA development management offices
☐ PHA local offices

Display Locations For PHA Plans and Supporting Documents

The PHA Plans (including attachments) are available for public inspection at: (select all that apply)

☒ Main administrative office of the PHA
☐ PHA development management offices
☐ PHA local offices
☒ Main administrative office of the local government
☒ Main administrative office of the County government
☐ Main administrative office of the State government
☐ Public library
☐ PHA website
☐ Other (list below)

PHA Plan Supporting Documents are available for inspection at: (select all that apply)

☒ Main business office of the PHA

☐ PHA development management offices

☐ Other (list below)

5-YEAR PLAN
PHA FISCAL YEARS 2003 - 2008
[24 CFR Part 903.5]

A. Mission

State the PHA's mission for serving the needs of low-income, very low income, and extremely low-income families in the PHA's jurisdiction. (select one of the choices below)

☐ The mission of the PHA is the same as that of the Department of Housing and Urban Development: To promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

☒ The PHA's mission is: *"To provide, administer and encourage quality affordable housing and related services to eligible residents of Monterey County."*

B. Goals

The goals and objectives listed below are derived from HUD's strategic Goals and Objectives and those emphasized in recent legislation. PHAs may select any of these goals and objectives as their own, or identify other goals and/or objectives. Whether selecting the HUD-suggested objectives or their own, **PHAS ARE STRONGLY ENCOURAGED TO IDENTIFY QUANTIFIABLE MEASURES OF SUCCESS IN REACHING THEIR OBJECTIVES OVER THE COURSE OF THE 5 YEARS**. (Quantifiable measures would include targets such as: numbers of families served or PHAS scores achieved.) PHAs should identify these measures in the spaces to the right of or below the stated objectives.

HUD Strategic Goal: Increase the availability of decent, safe, and affordable housing.

☒ PHA Goal: Expand the supply of assisted housing
Objectives:
- ☒ Apply for additional rental vouchers:
- ☒ Reduce public housing vacancies:
- ☒ Leverage private or other public funds to create additional housing opportunities:
- ☒ Acquire or build units or developments
- ☒ Other : *"As capacity allows and funding allows to develop partnerships with service providers that promote self-sufficiency of families and individuals."*

☒ PHA Goal: Improve the quality of assisted housing
Objectives:
- ☒ Improve public housing management: (PHAS score)
- ☒ Improve voucher management: (SEMAP score)
- ☒ Increase customer satisfaction:

- ☒ Concentrate on efforts to improve specific management functions: (list; e.g., public housing finance; voucher unit inspections)
  Improve Capital Planning and Property Management Reporting.
- ☒ Renovate or modernize public housing units:
- ☒ Demolish or dispose of obsolete public housing:
- ☐ Provide replacement public housing:
- ☒ Provide replacement vouchers: *As needed*
- ☒ Other: (list below)
  "Dispose of public housing that is financially unfeasible to operate and maintain."

☒ PHA Goal: Increase assisted housing choices
Objectives:

- ☒ Provide voucher mobility counseling:
- ☒ Conduct outreach efforts to potential voucher landlords
- ☒ Increase voucher payment standards *(if possible)*
- ☒ Implement voucher down payment assistance homeownership program:
- ☒ Implement public housing or other homeownership programs:
- ☒ Implement public housing site-based waiting lists:
- ☒ Convert public housing to vouchers:
- ☒ Other: *"Implemented the Project Based Section 8 Housing Choice Voucher Program" – additional PBV units made available for new multifamily projects in order to meet the needs of the County.*

HUD Strategic Goal: Improve community quality of life and economic vitality

☒ PHA Goal: Provide an improved living environment
Objectives:

- ☒ Implement measures to deconcentrate poverty by bringing higher income public housing households into lower income developments:
- ☒ Implement measures to promote income mixing in public housing by assuring access for lower income families into higher income developments:
- ☒ Implement public housing security improvements:
- ☒ Designate developments or buildings for particular resident groups (elderly, persons with disabilities)
- ☒ Other: (list below)
  "Analyze crime and determine site needs based upon analysis of crimes at sites."

HUD Strategic Goal: Promote self-sufficiency and asset development of families and individuals

☒ PHA Goal: Promote self-sufficiency and asset development of assisted households

Objectives:

- ☒ Increase the number and percentage of employed persons in assisted families:
- ☒ Provide or attract supportive services to improve assistance recipients' employability:
- ☒ Provide or attract supportive services to increase independence for the elderly or families with disabilities.
- ☒ Other: (list below)
  "Access the services of Central Coast Center for Independent Living, John XXIII Aids Ministry and Housing Choices Coalition to increase services for elderly or families with disabilities."

HUD Strategic Goal: Ensure Equal Opportunity in Housing for all Americans

☒ PHA Goal: Ensure equal opportunity and affirmatively further fair housing
Objectives:

- ☒ Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability:
- ☒ Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability:
- ☒ Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required:
- ☐ Other: (list below)

Annual PHA Plan
PHA Fiscal Year 2007
[24 CFR Part 903.7]

i. Annual Plan Type:
Select which type of Annual Plan the PHA will submit.

☒ **Standard Plan**

☐ **Troubled Agency Plan**

ii. Executive Summary of the Annual PHA Plan
[24 CFR Part 903.7 9 (r)]
Provide a brief overview of the information in the Annual Plan, including highlights of major initiatives and discretionary policies the PHA has included in the Annual Plan.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
5-YEAR STRATEGIC PLAN GOALS 2003 - 2008

1. Provide excellent customer service.

2. Be the lead affordable housing organization in the County.

3. Increase affordable housing opportunities within Monterey County by developing or stimulating development of affordable housing both through in-house development activities and in partnership with or on behalf of others.

4. Ensure long term financial viability for the agency in light of changes in federal, state and local funding and increased scrutiny of housing programs.

5. Implement an overall asset management discipline to ensure the long-term physical and financial viability of the assets that are owned, managed or financed by the agency.

MISSION STATEMENT
"To provide, administer and encourage quality affordable housing and related services to eligible residents of Monterey County."

iii. Annual Plan Table of Contents

[24 CFR Part 903.7 9 (r)]

Provide a table of contents for the Annual Plan, including attachments, and a list of supporting documents available for public inspection.

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Attachments

Indicate which attachments are provided by selecting all that apply. Provide the attachment's name (A, B, etc.) in the space to the left of the name of the attachment. Note: If the attachment is provided as a **SEPARATE** file submission from the PHA Plans file, provide the file name in parentheses in the space to the right of the title.

Required Attachments:

- ☒ Admissions Policy for Deconcentration
- ☒ FY 2007 Capital Fund Program Annual Statement
- ☐ Most recent board-approved operating budget (Required Attachment for PHAs that are troubled or at risk of being designated troubled ONLY)
- ☒ List of Resident Advisory Board Members
- ☒ List of Resident Board Member
- ☒ Community Service Description of Implementation
- ☒ Information on Pet Policy
- ☒ Section 8 Homeownership Capacity Statement, if applicable
- ☒ Description of Homeownership Programs, if applicable

Optional Attachments:

☒ PHA Management Organizational Chart
☒ FY 2007 Capital Fund Program 5 Year Action Plan
☐ Public Housing Drug Elimination Program (PHDEP) Plan
☒ Comments of Resident Advisory Board or Boards (must be attached if not included in PHA Plan text)
☒ Other (List below, providing each attachment name)
Attachment 1: Organizational Chart
Attachment 2: Pet Ownership in Public Housing
Attachment 3: Membership of Resident Advisory Board
Attachment 4: Resident membership of the PHA Governing Board
Attachment 5: Public Housing Development and Replacement Activities Matrix
Attachment 6: HACM Section 3 Policy

Supporting Documents Available for Review

Indicate which documents are available for public review by placing a mark in the "Applicable & On Display" column in the appropriate rows. All listed documents must be on display if applicable to the program activities conducted by the PHA.

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
X	PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations	5 Year and Annual Plans
X	State/Local Government Certification of Consistency with the Consolidated Plan	5 Year and Annual Plans
X	Fair Housing Documentation: Records reflecting that the PHA has examined its programs or proposed programs, identified any impediments to fair housing choice in those programs, addressed or is addressing those impediments in a reasonable fashion in view of the resources available, and worked or is working with local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing that require the PHA's involvement.	5 Year and Annual Plans
X	Consolidated Plan for the jurisdiction/s in which the PHA is located (which includes the Analysis of Impediments to Fair Housing Choice (AI))) and any additional backup data to support statement of housing needs in the jurisdiction	Annual Plan: Housing Needs
X	Most recent board-approved operating budget for the public housing program	Annual Plan: Financial Resources;
X	Public Housing Admissions and (Continued) Occupancy Policy (A&O), which includes the Tenant Selection and Assignment Plan [TSAP]	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
		Policies
X	Public Housing Deconcentration and Income Mixing Documentation: 1. PHA board certifications of compliance with deconcentration requirements (section 16(a) of the US Housing Act of 1937, as implemented in the 2/18/*99 Quality Housing and Work Responsibility Act Initial Guidance; Notice* and any further HUD guidance) and 2. Documentation of the required deconcentration and income mixing analysis	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Public housing rent determination policies, including the methodology for setting public housing flat rents ☒ check here if included in the public housing A & O Policy	Annual Plan: Rent Determination
X	Schedule of flat rents offered at each public housing development ☒ check here if included in the public housing A & O Policy	Annual Plan: Rent Determination
X	Section 8 rent determination (payment standard) policies ☒ check here if included in Section 8 Administrative Plan	Annual Plan: Rent Determination
X	Public housing management and maintenance policy documents, including policies for the prevention or eradication of pest infestation (including cockroach infestation)	Annual Plan: Operations and Maintenance
X	Public housing grievance procedures ☒ check here if included in the public housing A & O Policy	Annual Plan: Grievance Procedures
X	Section 8 informal review and hearing procedures ☒ check here if included in Section 8 Administrative Plan	Annual Plan: Grievance Procedures
X	The HUD-approved Capital Fund/Comprehensive Grant Program Annual Statement (HUD 52837) for the active grant year	Annual Plan: Capital Needs
N/A	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grant	Annual Plan: Capital Needs
X	Most recent, approved 5 Year Action Plan for the Capital Fund/Comprehensive Grant Program, if not included as an attachment (provided at PHA option)	Annual Plan: Capital Needs
N/A	Approved HOPE VI applications or, if more recent, approved or submitted HOPE VI Revitalization Plans or any other approved proposal for development of public housing	Annual Plan: Capital Needs
X	Approved or submitted applications for demolition and/or disposition of public housing	Annual Plan: Demolition and Disposition
N/A	Approved or submitted applications for designation of public housing (Designated Housing Plans)	Annual Plan: Designation of Public Housing
N/A	Approved or submitted assessments of reasonable revitalization of public housing and approved or submitted	Annual Plan: Conversion of Public Housing

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
	conversion plans prepared pursuant to section 202 of the 1996 HUD Appropriations Act	
N/A	Approved or submitted public housing homeownership programs/plans	Annual Plan: Homeownership
X	Policies governing any Section 8 Homeownership program ☒ check here if included in the Section 8 Administrative Plan	Annual Plan: Homeownership
	Any cooperative agreement between the PHA and the TANF agency	Annual Plan: Community Service & Self-Sufficiency
X	FSS Action Plan/s for public housing and/or Section 8	Annual Plan: Community Service & Self-Sufficiency
N/A	Most recent self-sufficiency (ED/SS, TOP or ROSS or other resident services grant) grant program reports	Annual Plan: Community Service & Self-Sufficiency
N/A	The most recent Public Housing Drug Elimination Program (PHEDEP) semi-annual performance report for any open grant and most recently submitted PHDEP application (PHDEP Plan)	Annual Plan: Safety and Crime Prevention
X	The most recent fiscal year audit of the PHA conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U. S.C. 1437c(h)), the results of that audit and the PHA's response to any findings	Annual Plan: Annual Audit
N/A	Troubled PHAs: MOA/Recovery Plan	Troubled PHAs
	Other supporting documents (optional) (list individually; use as many lines as necessary)	(specify as needed)

1. Statement of Housing Needs

[24 CFR Part 903.7 9 (a)]

A. Housing Needs of Families in the Jurisdiction/s Served by the PHA

Based upon the information contained in the Consolidated Plan/s applicable to the jurisdiction, and/or other data available to the PHA, provide a statement of the housing needs in the jurisdiction by completing the following table. In the "Overall" Needs column, provide the estimated number of renter families that have housing needs. For the remaining characteristics, rate the impact of that factor on the housing needs for each family type, from 1 to 5, with 1 being "no impact" and 5 being "severe impact." Use N/A to indicate that no information is available upon which the PHA can make this assessment.

Housing Needs of Families in the Jurisdiction by Family Type							
Family Type	Overall	Afford-ability	Supply	Quality	Access-ability	Size	Locatio n
Income <= 30% of AMI	13,695	5	5	5	4	5	4
Income >30% but <=50% of AMI	13,597	5	5	4	4	5	4
Income >50% but <80% of AMI	19,842	5	4	4	4	4	4
Elderly	34,697	4	4	4	4	4	4
Families with Disabilities	13,659	5	5	5	5	5	5
Race/Ethnicity White/Non-Hisp	162,045	5	5	4	3	3	3
Race/Ethnicity Hispanic	187,969	5	5	4	3	5	5
Race/Ethnicity African-Am.	14,865	5	5	4	3	4	4
Race/Ethnicity Asian	24,106	5	5	4	3	4	4
Race/Ethnicity Other & Mixed	132,180	5	5	4	3	4	4

What sources of information did the PHA use to conduct this analysis? (Check all that apply; all materials must be made available for public inspection.)

☒ Consolidated Plan of the Jurisdiction/s
Indicate year: City of Monterey, Seaside, Salinas

☐ U.S. Census data: the Comprehensive Housing Affordability Strategy ("CHAS") dataset

☐ American Housing Survey data
Indicate year:

☐ Other housing market study

☒ Other sources: (list and indicate year of information) AMBAG Census Data, 2000, County of Monterey Census Data

B. Housing Needs of Families on the Public Housing and Section 8 Tenant- Based Assistance Waiting Lists

State the housing needs of the families on the PHA's waiting list/s**. Complete one table for each type of PHA-wide waiting list administered by the PHA.** PHAs may provide separate tables for site-based or sub-jurisdictional public housing waiting lists at their option.

Housing Needs of Families on the Waiting List			
Waiting list type: (select one) ☒ Section 8 tenant-based assistance ☐ Public Housing ☐ Combined Section 8 and Public Housing ☐ Public Housing Site-Based or sub-jurisdictional waiting list (optional) If used, identify which development/subjurisdiction:			
	# of families	% of total families	Annual Turnover
Waiting list total	2474		
Extremely low income <=30% AMI	1909	77%	
Very low income (>30% but <=50% AMI)	490	20%	
Low income (>50% but <80% AMI)	75	3%	
Families with children	1567	63%	
Elderly families	198	8%	
Families with Disabilities	230	9%	
Race/ethnicity White/Hispanic	1562	63%	
Race/ethnicity White/Non-Hispanic	502	20%	
Race/ethnicity Black/Hispanic	22	1%	
Race/ethnicity Black/Non-Hispanic	185	7%	
Race/ethnicity Amer. Ind./Hispanic	28	1%	

Housing Needs of Families on the Waiting List			
Race/ethnicity Amer.Ind/Non-Hisp	41	2%	
Race/ethnicity Asian/Hispanic	43	2%	
Race/ethnicity Asian/Non-Hispanic	59	2%	
Race/ethnicity Pacific Isl./Hispanic	14	1%	
Race/ethnicity Pacific Isl/Non-Hisp	18	1%	
Characteristics by Bedroom Size (Public Housing Only)			
1BR	N/A		
2 BR	N/A		
3 BR	N/A		
4 BR	N/A		
5 BR	N/A		
5+ BR	N/A		

Is the waiting list closed (select one)? ☐ No ☒ Yes

If yes:

How long has it been closed (# of months)? 13 months

Does the PHA expect to reopen the list in the PHA Plan year? ☒ No ☐ Yes

Does the PHA permit specific categories of families onto the waiting list, even if generally closed? ☐ No ☒ Yes

Housing Needs of Families on the Waiting List			
Waiting list type: (select one) ☐ Section 8 tenant-based assistance ☒ Public Housing ☐ Combined Section 8 and Public Housing ☐ Public Housing Site-Based or sub-jurisdictional waiting list (optional) If used, identify which development/subjurisdiction:			
	# of families	% of total families	Annual Turnover
Waiting list total	1801		
Extremely low income <=30% AMI	1355	75%	
Very low income	371	21%	

Housing Needs of Families on the Waiting List			
(>30% but <=50% AMI)			
Low income (>50% but <80% AMI)	75	4%	
Families with children	1382	77%	
Elderly families	41	2%	
Families with Disabilities	134	7%	
Race/ethnicity White/Hispanic	1238	69%	
Race/ethnicity White/Non-Hispanic	308	17%	
Race/ethnicity Black/Hispanic	17	1%	
Race/ethnicity Black/Non-Hispanic	128	7%	
Race/ethnicity Amer. Ind./Hispanic	20	1%	
Race/ethnicity Amer.Ind/Non-Hisp	26	1.5%	
Race/ethnicity Asian/Hispanic	19	1%	
Race/ethnicity Asian/Non-Hispanic	27	1.5%	
Race/ethnicity Pacific Isl./Hispanic	6	0%	
Race/ethnicity Pacific Isl/Non-Hisp	12	1%	
Characteristics by Bedroom Size (Public Housing Only)			
1BR	419	23%	
2 BR	642	36%	
3 BR	643	36%	
4 BR	88	5%	
5 BR	8	0%	
5+ BR	1	0%	

Housing Needs of Families on the Waiting List
Is the waiting list closed (select one)? ☒ No ☐ Yes If yes: How long has it been closed (# of months)? Does the PHA expect to reopen the list in the PHA Plan year? ☐ No ☐ Yes Does the PHA permit specific categories of families onto the waiting list, even if generally closed? ☐ No ☐ Yes

C. Strategy for Addressing Needs

Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list **IN THE UPCOMING YEAR**, and the Agency's reasons for choosing this strategy.

(1) Strategies

Need: Shortage of affordable housing for all eligible populations

Strategy 1. Maximize the number of affordable units available to the PHA within its current resources by:

Select all that apply

- ☒ Employ effective maintenance and management policies to minimize the number of public housing units off-line
- ☒ Reduce turnover time for vacated public housing units
- ☒ Reduce time to renovate public housing units
- ☒ Seek replacement of public housing units lost to the inventory through mixed finance development
- ☒ Seek replacement of public housing units lost to the inventory through section 8 replacement housing resources
- ☒ Maintain or increase section 8 lease-up rates by establishing payment standards that will enable families to rent throughout the jurisdiction
- ☒ Undertake measures to ensure access to affordable housing among families assisted by the PHA, regardless of unit size required
- ☒ Maintain or increase section 8 lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration
- ☒ Maintain or increase section 8 lease-up rates by effectively screening Section 8 applicants to increase owner acceptance of program
- ☒ Participate in the Consolidated Plan development process to ensure coordination with broader community strategies
- ☒ Other (list below)
  "*Develop collaborative partnerships with other agencies to maximum funding opportunities for Affordable Housing Developments.*"

"Apply for Grants under HUD's SUPERNOFA and Lease-up available allocations to 100%".

Strategy 2: Increase the number of affordable housing units by:
Select all that apply

☒ Apply for additional section 8 units should they become available
☒ Leverage affordable housing resources in the community through the creation of mixed - finance housing
☒ Pursue housing resources other than public housing or Section 8 tenant-based assistance.
☒ Other: (list below)
"Home Funding in cooperation with CHDO and mixed-income financing and local resources."

Need: Specific Family Types: Families at or below 30% of median

Strategy 1: Target available assistance to families at or below 30 % of AMI
Select all that apply

☐ Exceed HUD federal targeting requirements for families at or below 30% of AMI in public housing
☐ Exceed HUD federal targeting requirements for families at or below 30% of AMI in tenant-based section 8 assistance
☒ Employ admissions preferences aimed at families with economic hardships
☒ Adopt rent policies to support and encourage work
☐ Other: (list below)

Need: Specific Family Types: Families at or below 50% of median

Strategy 1: Target available assistance to families at or below 50% of AMI
Select all that apply

☒ Employ admissions preferences aimed at families who are working
☒ Adopt rent policies to support and encourage work
☐ Other: (list below)

Need: Specific Family Types: The Elderly

Strategy 1: Target available assistance to the elderly:
Select all that apply

☐ Seek designation of public housing for the elderly
☒ Apply for special-purpose vouchers targeted to the elderly, should they become available
☒ Other: (list below)

"Work in conjunction with cities of Seaside, Marina, Monterey and Monterey County to create additional elderly housing."

Need: Specific Family Types: Families with Disabilities

Strategy 1: Target available assistance to Families with Disabilities:
Select all that apply

☐ Seek designation of public housing for families with disabilities
☒ Carry out the modifications needed in public housing based on the section 504 Needs Assessment for Public Housing
☒ Apply for special-purpose vouchers targeted to families with disabilities, should they become available
☒ Affirmatively market to local non-profit agencies that assist families with disabilities
☒ Other: (list below)
"Apply for special needs vouchers, when funding is available."

Need: Specific Family Types: Races or ethnicities with disproportionate housing needs

Strategy 1: Increase awareness of PHA resources among families of races and ethnicities with disproportionate needs:
Select if applicable

☒ Affirmatively market to races/ethnicities shown to have disproportionate housing needs
☐ Other: (list below)

Strategy 2: Conduct activities to affirmatively further fair housing
Select all that apply

☒ Counsel section 8 tenants as to location of units outside of areas of poverty or minority concentration and assist them to locate those units
☒ Market the section 8 program to owners outside of areas of poverty /minority concentrations
☒ Other: (list below)
"Provide counseling on portability and mobility."

Other Housing Needs & Strategies: (list needs and strategies below)

(2) Reasons for Selecting Strategies
Of the factors listed below, select all that influenced the PHA's selection of the strategies it will pursue:

☒ Funding constraints

☒ Staffing constraints
☒ Limited availability of sites for assisted housing
☒ Extent to which particular housing needs are met by other organizations in the community
☒ Evidence of housing needs as demonstrated in the Consolidated Plan and other information available to the PHA
☒ Influence of the housing market on PHA programs
☒ Community priorities regarding housing assistance
☒ Results of consultation with local or state government
☒ Results of consultation with residents and the Resident Advisory Board
☒ Results of consultation with advocacy groups
☒ Other: (list below)
"*Waiting lists data Homeless Coalition and other non-profits.*"

2. Statement of Financial Resources

[24 CFR Part 903.7 9 (b)]

List the financial resources that are anticipated to be available to the PHA for the support of Federal public housing and tenant-based Section 8 assistance programs administered by the PHA during the Plan year. Note: the table assumes that Federal public housing or tenant based Section 8 assistance grant funds are expended on eligible purposes; therefore, uses of these funds need not be stated. For other funds, indicate the use for those funds as one of the following categories: public housing operations, public housing capital improvements, public housing safety/security, public housing supportive services, Section 8 tenant-based assistance, Section 8 supportive services or other.

Financial Resources: Planned Sources and Uses		
Sources	**Planned $**	**Planned Uses**
1. **Federal Grants (FY 2007 grants)**		
a) Public Housing Operating Fund	$171,712.00	PH Operations
b) Public Housing Capital Fund	$1,399,922.00	PH Capital Improve
c) HOPE VI Revitalization	0	
d) HOPE VI Demolition	0	
e) Annual Contributions for Section 8 Tenant-Based Assistance	$31,851,988.00	Section 8 HAP & Admin. Fees
f) Public Housing Drug Elimination Program (including any Technical Assistance funds)	0	
g) Resident Opportunity and Self-Sufficiency Grants	0	
h) Community Development Block Grant	0	
i) HOME	0	
Other Federal Grants (list below)		
Supportive Housing Program	$356,705.00	Supportive Services and Operations

Financial Resources: Planned Sources and Uses		
Sources	**Planned $**	**Planned Uses**
USDA Rural Development Rental Assistance	$134,212.00	Rental Operations
2. Prior Year Federal Grants (unobligated funds only) (list below)	0	
3. Public Housing Dwelling Rental Income	$2,692,193.00	PH Operations
4. Other income (list below)		
4. Non-federal sources (list below)		
CHFA Rental Assistance	$384,004.00	Rental Operations
Office of Migrant Services	$496,157.00	Migrant Operations
RHCP Annuity	$41,359.00	Rental Operations
Other Rentals and Tenant Income	$1,705,685.00	Rental Operations
Other Grants	0	
Other Income	$2,622,511.00	Operations
Administrative Fees	$326,392.00	Operations
Interest Income	$925,489.00	Operations
Total resources	**$43,108,329.00**	

3. PHA Policies Governing Eligibility, Selection, and Admissions

[24 CFR Part 903.7 9 (c)]

A. Public Housing

Exemptions: PHAs that do not administer public housing are not required to complete subcomponent 3A.

(1) Eligibility

a. When does the PHA verify eligibility for admission to public housing? (select all that apply)

☒ When families are within a certain number of being offered a unit: (state number) **150**

☒ When families are within a certain time of being offered a unit: (state time) **90 days**

☐ Other: (describe)

b. Which non-income (screening) factors does the PHA use to establish eligibility for admission to public housing (select all that apply)?

☒ Criminal or Drug-related activity
☒ Rental history
☒ Housekeeping
☐ Other (describe)

c. ☒ Yes ☐ No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

d. ☐ Yes ☒ No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

e. ☐ Yes ☒ No: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC-authorized source)

(2)Waiting List Organization

a. Which methods does the PHA plan to use to organize its public housing waiting list (select all that apply)

☒ Community-wide list
☐ Sub-jurisdictional lists
☒ Site-based waiting lists
☐ Other (describe)

b. Where may interested persons apply for admission to public housing?

☒ PHA main administrative office
☐ PHA development site management office
☐ Other (list below)

c. If the PHA plans to operate one or more site-based waiting lists in the coming year, answer each of the following questions; if not, skip to subsection **(3) Assignment**

1. How many site-based waiting lists will the PHA operate in the coming year?5

2. ☐ Yes ☒ No: Are any or all of the PHA's site-based waiting lists new for the upcoming year (that is, they are not part of a previously-HUD-approved site based waiting list plan)?
If yes, how many lists?

3. ☒ Yes ☐ No: May families be on more than one list simultaneously
If yes, how many lists? 5

4. Where can interested persons obtain more information about and sign up to be on the site-based waiting lists (select all that apply)?

☒ PHA main administrative office
☒ All PHA development management offices
☒ Management offices at developments with site-based waiting lists
☒ At the development to which they would like to apply
☐ Other (list below)

(3) Assignment

a. How many vacant unit choices are applicants ordinarily given before they fall to the bottom of or are removed from the waiting list? (select one)

☐ One
☒ Two
☐ Three or More

b. ☒ Yes ☐ No: Is this policy consistent across all waiting list types?

c. If answer to b is no, list variations for any other than the primary public housing waiting list/s for the PHA:

(4) Admissions Preferences

a. Income targeting:

☐ Yes ☒ No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 40% of all new admissions to public housing to families at or below 30% of median area income?

b. Transfer policies:

In what circumstances will transfers take precedence over new admissions? (list below)

☒ Emergencies
☒ Overhoused
☒ Underhoused
☒ Medical justification
☒ Administrative reasons determined by the PHA (e.g., to permit modernization work)
☐ Resident choice: (state circumstances below)
☐ Other: (list below)

"Schools- if enrolled in specialized program to facilitate attendance" or "to move to another jurisdiction in order to work."

c. Preferences

1. ☒ Yes ☐ No: Has the PHA established preferences for admission to public housing (other than date and time of application)? (If "no" is selected, skip to subsection **(5) Occupancy**)

2. Which of the following admission preferences does the PHA plan to employ in the coming year? (select all that apply from either former Federal preferences or other preferences)

Former Federal preferences:

☒ Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
☐ Victims of domestic violence
☒ Substandard housing
☐ Homelessness
☐ High rent burden (rent is > 50 percent of income)

Other preferences: (select below)

☒ Working families and those unable to work because of age or disability
☒ Veterans and veterans' families
☐ Residents who live and/or work in the jurisdiction
☒ Those enrolled currently in educational, training, or upward mobility programs
☐ Households that contribute to meeting income goals (broad range of incomes)
☒ Households that contribute to meeting income requirements (targeting)
☒ Those previously enrolled in educational, training, or upward mobility programs
☒ Victims of reprisals or hate crimes
☐ Other preference(s) (list below)

3. If the PHA will employ admissions preferences, please prioritize by placing a "1" in the space that represents your first priority, a "2" in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use "1" more than once, "2" more than once, etc.

1 Date and Time

Former Federal preferences:

3 Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
Victims of domestic violence
4 Substandard housing
Homelessness
High rent burden

Other preferences (select all that apply)

☒ Working families and those unable to work because of age or disability
☒ Veterans and veterans' families
☐ Residents who live and/or work in the jurisdiction
☒ Those enrolled currently in educational, training, or upward mobility programs
☐ Households that contribute to meeting income goals (broad range of incomes)
☐ Households that contribute to meeting income requirements (targeting)
☒ Those previously enrolled in educational, training, or upward mobility programs
☒ Victims of reprisals or hate crimes
☒ Other preference(s) (list below)

1. *Working Families*
2. *Families who are actively enrolled in a case management, job training program, transitional housing or other self-sufficiency program.*
3. *Frail Elderly.*
4. *Families with household members who are mentally, physically, or developmentally disabled.*
5. *Victims of Disaster.*
6. *Elderly families or families headed by an elderly person.*
7. *Families who reside in substandard housing or who are involuntarily displaced as a result of code enforcement activities as determined by local code enforcement program officials.*

4. Relationship of preferences to income targeting requirements:

☐ The PHA applies preferences within income tiers
☒ Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements

(5) Occupancy

a. What reference materials can applicants and residents use to obtain information about the rules of occupancy of public housing (select all that apply)

☒ The PHA-resident lease
☒ The PHA's Admissions and (Continued) Occupancy policy
☒ PHA briefing seminars or written materials
☒ Other source (list)
Initial Eligibility Orientation, Resident Handbook and Leasing Orientation.

b. How often must residents notify the PHA of changes in family composition? (select all that apply)

☒ At an annual reexamination and lease renewal
☒ Any time family composition changes
☒ At family request for revision
☐ Other (list)

(6) Deconcentration and Income Mixing

a. ☒ Yes ☐ No: Did the PHA's analysis of its family (general occupancy) developments to determine concentrations of poverty indicate the need for measures to promote deconcentration of poverty or income mixing?

b. ☐ Yes ☒ No: Did the PHA adopt any changes to its **admissions policies** based on the results of the required analysis of the need to promote deconcentration of poverty or to assure income mixing?

c. If the answer to b was yes, what changes were adopted? (select all that apply)

☐ Adoption of site based waiting lists
If selected, list targeted developments below:

☐ Employing waiting list "skipping" to achieve deconcentration of poverty or income mixing goals at targeted developments
If selected, list targeted developments below:

☐ Employing new admission preferences at targeted developments
If selected, list targeted developments below:

☐ Other (list policies and developments targeted below)

d. ☐ Yes ☒ No: Did the PHA adopt any changes to **other** policies based on the results of the required analysis of the need for deconcentration of poverty and income mixing?

e. If the answer to d was yes, how would you describe these changes? (select all that apply)

☐ Additional affirmative marketing
☐ Actions to improve the marketability of certain developments
☐ Adoption or adjustment of ceiling rents for certain developments
☐ Adoption of rent incentives to encourage deconcentration of poverty and income-mixing
☐ Other (list below)

f. Based on the results of the required analysis, in which developments will the PHA make special efforts to attract or retain higher-income families? (select all that apply)

☐ Not applicable: results of analysis did not indicate a need for such efforts
☐ List (any applicable) developments below:

g. Based on the results of the required analysis, in which developments will the PHA make special efforts to assure access for lower-income families? (select all that apply)

☐ Not applicable: results of analysis did not indicate a need for such efforts

☐ List (any applicable) developments below:

B. Section 8

Exemptions: PHAs that do not administer section 8 are not required to complete sub-component 3B. **Unless otherwise specified, all questions in this section apply only to the tenant-based section 8 assistance program (vouchers, and until completely merged into the voucher program, certificates).**

(1) Eligibility

a. What is the extent of screening conducted by the PHA? (select all that apply)

☒ Criminal or drug-related activity only to the extent required by law or regulation

☐ Criminal and drug-related activity, more extensively than required by law or regulation

☐ More general screening than criminal and drug-related activity (list factors below)

☐ Other (list below)

b. ☒ Yes ☐ No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

c. ☐ Yes ☒ No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

d. ☐ Yes ☒ No: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC-authorized source)

e. Indicate what kinds of information you share with prospective landlords? (select all that apply)

☒ Criminal or drug-related activity

☒ Other (describe below)

Eviction history and damage to rental units.

(2) Waiting List Organization

a. With which of the following program waiting lists is the section 8 tenant-based assistance waiting list merged? (select all that apply)

☐ None

☐ Federal public housing
☒ Federal moderate rehabilitation
☐ Federal project-based certificate program
☐ Other federal or local program (list below)

b. Where may interested persons apply for admission to section 8 tenant-based assistance? (select all that apply)
☒ PHA main administrative office
☒ Other (list below)
Central Coast for Independent Living, San Andreas Regional Center, Department of Social Services, John XXIII, and City Hall of Cities within the County.

(3) Search Time

a. ☒ Yes ☐ No: Does the PHA give extensions on standard 60-day period to search for a unit?

If yes, state circumstances below:
Vouchers issued for 60 days and extended up to 120 days or as required for person with disabiliies.

(4) Admissions Preferences

a. Income targeting

☐ Yes ☒ No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 75% of all new admissions to the section 8 program to families at or below 30% of median area income?

b. Preferences
1. ☒ Yes ☐ No: Has the PHA established preferences for admission to section 8 tenant-based assistance? (other than date and time of application) (if no, skip to subcomponent **(5) Special purpose section 8 assistance programs**)

Local Preferences for Family Unification Program

In order to participate in the Family Unification Demonstration Program, a family must be a Family Unification eligible family as defined in (Federal Register). The FUP preferences apply to the Family Unification Program only, and not the regular Section 8 Program. Based upon previous experience of DSS and the Housing Authority in administering the FUP, the following local preferences apply to the FUP only.

1. Families, which are victims of severe and ongoing domestic violence, or sexual abuse (10 Points).
2. Graduates of Transitional housing program, which addresses sobriety maintenance, living skills, domestic violence counseling, development of positive support networks and family functioning skills (5 Points).
3. (2002 fup) The Housing Authority for 2002 will develop a program with the Monterey County Department of Social Services, Children's Services Division, whereby a portion of the Family Unification Allocation (if funded) will be utilized for an independent living skills program for youth aging out of foster care, and who will be homeless without such a program whereby housing and services are linked to develop living skills in youth aged 18-24 for a two year period. It is anticipated that a non-profit agency will master lease a facility and lease units to the youth. (5Points)
4. Families who meet all other criteria of the FUP and do not have a substance abuse factor in the placement of their children in-out of home care, or the imminent placement in-out of home care, i.e., living in substandard, dilapidated, or overcrowded housing (1Point).

2. Which of the following admission preferences does the PHA plan to employ in the coming year? (select all that apply from either former Federal preferences or other preferences)

Former Federal preferences

- ☐ Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
- ☒ Victims of domestic violence
- ☐ Substandard housing
- ☐ Homelessness
- ☐ High rent burden (rent is > 50 percent of income)

Other preferences (select all that apply)

- ☐ Working families and those unable to work because of age or disability
- ☒ Veterans and veterans' families
- ☐ Residents who live and/or work in your jurisdiction
- ☒ Those enrolled currently in educational, training, or upward mobility programs
- ☐ Households that contribute to meeting income goals (broad range of incomes)
- ☐ Households that contribute to meeting income requirements (targeting)
- ☒ Those previously enrolled in educational, training, or upward mobility programs
- ☒ Victims of reprisals or hate crimes
- ☒ Other preference(s) (list below)

Local Preferences: 50% all have the same weight, and are rated and ranked by a Ranking Point System and date and time of application.

1. Frail Elderly. (10 Points)
2. Families living in a rental rehabilitation project. (10 Points)
3. Formerly homeless families or homeless families actively enrolled in a case management, transition housing, or other self-sufficiency programs. (15 pts)
4. Families participating in Self Sufficiency Programs.(15 Points)
5. Families living in moderate rehabilitation and/or project-based program units whose health, welfare, or safety is threatened, or families who have provided drug related criminal activity testimony. (10 Points)
6. Families that need to move closer to medical and/or social services facilities. (10 Points)
7. Victims of disasters as verified by FEMA, the American Red Cross or other disaster assistance agency. (30 Points)
8. Families who reside in substandard housing, or who are involuntarily displaced or about to be involuntarily displaced as a result of code enforcement activities as determined by local Housing Code Enforcement Program Officials. (15 Points)
9. Elderly families or families headed by an elderly person. (10 Points)
10. Families with household members who mentally/physically/developmentally disabled. (10 Points)
11. Families who have been diagnosed with a medical condition as severe/terminal, resulting in a medical crisis which may require continuous care services in the home. (30 Points)
12. Families who are considered to be living in-place. Those living in a unit that will be brought under contract where the landlord will accept the Section 8 Housing Choice Voucher program. (25 Points)

Additional Ranking Points for the following:

Veteran 10 Points

Remaining 50% to be housed by date and time of application with additional points for Veterans

Veteran 10 Points

Date and Time of Application 50%: the remaining 50% will be ranked according to date and time of application and additional points for the following:

3. If the PHA will employ admissions preferences, please prioritize by placing a “1” in the space that represents your first priority, a “2” in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use “1” more than once, “2” more than once, etc.

1 Date and Time

Former Federal preferences

Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)

2 Victims of domestic violence

Substandard housing

Homelessness

High rent burden

The HACM intends to support or assist victims of domestic violence, dating violence, sexual assault, or stalking in accordance with the Violence Against Women Reauthorization Act of 2005 (VAWA) as well as members of the victims' immediate families– from losing their HUD-assisted housing as a consequence of the abuse of which they were the victim.

HACM has amended its Section 8 administrative plan in accordance with VAWA requirements. The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the Section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit"
[Pub.L. 109-162]

The HACM has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub.L. 109-162]

Other preferences (select all that apply)

- ☐ Working families and those unable to work because of age or disability
- ☒ Veterans and veterans' families
- ☐ Residents who live and/or work in your jurisdiction
- ☒ Those enrolled currently in educational, training, or upward mobility programs
- ☐ Households that contribute to meeting income goals (broad range of incomes)
- ☐ Households that contribute to meeting income requirements (targeting)
- ☒ Those previously enrolled in educational, training, or upward mobility programs
- ☒ Victims of reprisals or hate crimes
- ☐ Other preference(s) (list below)

4. Among applicants on the waiting list with equal preference status, how are applicants selected? (select one)

☒ Date and time of application
☐ Drawing (lottery) or other random choice technique

5. If the PHA plans to employ preferences for "residents who live and/or work in the jurisdiction" (select one)
☐ This preference has previously been reviewed and approved by HUD
☒ The PHA requests approval for this preference through this PHA Plan

6. Relationship of preferences to income targeting requirements: (select one)
☒ The PHA applies preferences within income tiers
☐ Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements

(5) Special Purpose Section 8 Assistance Programs

a. In which documents or other reference materials are the policies governing eligibility, selection, and admissions to any special-purpose section 8 program administered by the PHA contained? (select all that apply)
☒ The Section 8 Administrative Plan
☒ Briefing sessions and written materials
☒ Other (list below)
The Family Handbook and Briefing Packet

b. How does the PHA announce the availability of any special-purpose section 8 programs to the public?
☒ Through published notices
☒ Other (list below)
Public Advertising in News Media, Announcement on Agency website, Mail informational packets to all service providers within County, local television station announcements.

4. PHA Rent Determination Policies
[24 CFR Part 903.7 9 (d)]

A. Public Housing
Exemptions: PHAs that do not administer public housing are not required to complete sub-component 4A.

(1) Income Based Rent Policies
Describe the PHA's income based rent setting policy/ies for public housing using, including discretionary (that is, not required by statute or regulation) income disregards and exclusions, in the appropriate spaces below.

a. Use of discretionary policies: (select one)

☒ The PHA will not employ any discretionary rent-setting policies for income based rent in public housing. Income-based rents are set at the higher of 30% of adjusted monthly income, 10% of unadjusted monthly income, the welfare rent, or minimum rent (less HUD mandatory deductions and exclusions). (If selected, skip to sub-component (2))

---or---

☐ The PHA employs discretionary policies for determining income based rent (If selected, continue to question b.)

b. Minimum Rent

1. What amount best reflects the PHA's minimum rent? (select one)

☐ $0
☐ $1-$25
☒ $26-$50

2. ☐ Yes ☒ No: Has the PHA adopted any discretionary minimum rent hardship exemption policies?

3. If yes to question 2, list these policies below**:**
Ch. 6 – Admission and Continued Occupancy Plan

c. Rents set at less than 30% than adjusted income

1. ☐ Yes ☒ No: Does the PHA plan to charge rents at a fixed amount or percentage less than 30% of adjusted income?

2. If yes to above, list the amounts or percentages charged and the circumstances under which these will be used below:

d. Which of the discretionary (optional) deductions and/or exclusions policies does the PHA plan to employ (select all that apply)

☐ For the earned income of a previously unemployed household member
☐ For increases in earned income
☐ Fixed amount (other than general rent-setting policy)
If yes, state amount/s and circumstances below:

☐ Fixed percentage (other than general rent-setting policy)

If yes, state percentage/s and circumstances below:

☐ For household heads
☐ For other family members
☐ For transportation expenses
☐ For the non-reimbursed medical expenses of non-disabled or non-elderly families
☐ Other (describe below)

e. Ceiling rents

1. Do you have ceiling rents? (rents set at a level lower than 30% of adjusted income) (select one)

☐ Yes for all developments
☐ Yes but only for some developments
☒ No

2. For which kinds of developments are ceiling rents in place? (select all that apply)

☐ For all developments
☐ For all general occupancy developments (not elderly or disabled or elderly only)
☐ For specified general occupancy developments
☐ For certain parts of developments; e.g., the high-rise portion
☐ For certain size units; e.g., larger bedroom sizes
☐ Other (list below)

3. Select the space or spaces that best describe how you arrive at ceiling rents (select all that apply)

☐ Market comparability study
☐ Fair market rents (FMR)
☐ 95th percentile rents
☐ 75 percent of operating costs
☐ 100 percent of operating costs for general occupancy (family) developments
☐ Operating costs plus debt service
☐ The “rental value” of the unit
☐ Other (list below)

f. Rent re-determinations:

1. Between income reexaminations, how often must tenants report changes in income or family composition to the PHA such that the changes result in an adjustment to rent? (select all that apply)

☐ Never
☐ At family option
☒ Any time the family experiences an income increase
☐ Any time a family experiences an income increase above a threshold amount or percentage: (if selected, specify threshold)_____
☒ Other (list below)
Change in Family Composition and decreases in income.

g. ☐ Yes ☒ No: Does the PHA plan to implement individual savings accounts for residents (ISAs) as an alternative to the required 12 month disallowance of earned income and phasing in of rent increases in the next year?

(2) Flat Rents

1. In setting the market-based flat rents, what sources of information did the PHA use to establish comparability? (select all that apply.)

☐ The section 8 rent reasonableness study of comparable housing
☐ Survey of rents listed in local newspaper
☐ Survey of similar unassisted units in the neighborhood
☒ Other (list/describe below)
Fair Market Rents for Section 8 Housing Choice Voucher Program

B. Section 8 Tenant-Based Assistance

Exemptions: PHAs that do not administer Section 8 tenant-based assistance are not required to complete sub-component 4B. **Unless otherwise specified, all questions in this section apply only to the tenant-based section 8 assistance program (vouchers, and until completely merged into the voucher program, certificates).**

(1) Payment Standards

Describe the voucher payment standards and policies**.**

a. What is the PHA's payment standard? (select the category that best describes your standard)

☒ At or above 90% but below100% of FMR
☐ 100% of FMR
☐ Above 100% but at or below 110% of FMR
☐ Above 110% of FMR (if HUD approved; describe circumstances below)

b. If the payment standard is lower than FMR, why has the PHA selected this standard? (select all that apply)

☐ FMRs are adequate to ensure success among assisted families in the PHA's segment of the FMR area
☒ The PHA has chosen to serve additional families by lowering the payment standard
☒ Reflects market or submarket
☐ Other (list below)

c. If the payment standard is higher than FMR, why has the PHA chosen this level? (select all that apply)

☐ FMRs are not adequate to ensure success among assisted families in the PHA's segment of the FMR area
☐ Reflects market or submarket
☐ To increase housing options for families
☐ Other (list below)

d. How often are payment standards reevaluated for adequacy? (select one)

☐ Annually
☒ Other (list below)
Quarterly

e. What factors will the PHA consider in its assessment of the adequacy of its payment standard? (select all that apply)

☒ Success rates of assisted families
☒ Rent burdens of assisted families
☒ Other (list below)
Monthly Review of Area Rents

(2) Minimum Rent

a. What amount best reflects the PHA's minimum rent? (select one)

☐ $0
☐ $1-$25
☒ $26-$50

b. ☐ Yes ☒ No: Has the PHA adopted any discretionary minimum rent hardship exemption policies? (if yes, list below)

5. Operations and Management

[24 CFR Part 903.7 9 (e)]

Exemptions from Component 5: High performing and small PHAs are not required to complete this section. Section 8 only PHAs must complete parts A, B, and C(2)

A. PHA Management Structure

Describe the PHA's management structure and organization.

(select one)

☒ An organization chart showing the PHA's management structure and organization is attached.
Attachment 1 – page 65

☐ A brief description of the management structure and organization of the PHA follows:

B. HUD Programs Under PHA Management

List Federal programs administered by the PHA, number of families served at the beginning of the upcoming fiscal year, and expected turnover in each. (Use "NA" to indicate that the PHA does not operate any of the programs listed below.)

Program Name	**Units or Families Served at Year Beginning**	**Expected Turnover**
Public Housing	615	150
Section 8 Vouchers	3380	360
Section 8 Certificates		
Section 8 Mod Rehab	32	3
Special Purpose Section 8 Certificates/Vouchers (list individually)	Shelter Plus Care – 18 Enhanced Vouchers – 7 S8 Homeownership – 2 S8 Project Based - 95	5
Public Housing Drug Elimination Program (PHDEP)		
Other Federal Programs(list individually)		

C. Management and Maintenance Policies

List the PHA's public housing management and maintenance policy documents, manuals and handbooks that contain the Agency's rules, standards, and policies that govern maintenance and management of public housing, including a description of any measures necessary for the prevention or eradication of pest infestation (which includes cockroach infestation) and the policies governing Section 8 management.

(1) Public Housing Maintenance and Management: (list below)
A.C.O.P. – Admissions and Continued Occupancy Plan

(2) Section 8 Management: (list below)
Section 8 Administrative Plan

6. PHA Grievance Procedures

[24 CFR Part 903.7 9 (f)]

Exemptions from component 6: High performing PHAs are not required to complete component 6. Section 8-Only PHAs are exempt from sub-component 6A.

A. Public Housing

1. ☐ Yes ☒ No: Has the PHA established any written grievance procedures in addition to federal requirements found at 24 CFR Part 966, Subpart B, for residents of public housing?

If yes, list additions to federal requirements below:

2. Which PHA office should residents or applicants to public housing contact to initiate the PHA grievance process? (select all that apply)

☒ PHA main administrative office
☒ PHA development management offices
☐ Other (list below)

B. Section 8 Tenant-Based Assistance

1. ☐ Yes ☒ No: Has the PHA established informal review procedures for applicants to the Section 8 tenant-based assistance program and informal hearing procedures for families assisted by the Section 8 tenant-based assistance program in addition to federal requirements found at 24 CFR 982?

If yes, list additions to federal requirements below:

2. Which PHA office should applicants or assisted families contact to initiate the informal review and informal hearing processes? (select all that apply)

☒ PHA main administrative office

☐ Other (list below)

7. Capital Improvement Needs

[24 CFR Part 903.7 9 (g)]

Exemptions from Component 7: Section 8 only PHAs are not required to complete this component and may skip to Component 8.

A. Capital Fund Activities

Exemptions from sub-component 7A: PHAs that will not participate in the Capital Fund Program may skip to component 7B. All other PHAs must complete 7A as instructed.

(1) Capital Fund Program Annual Statement

Using parts I, II, and III of the Annual Statement for the Capital Fund Program (CFP), identify capital activities the PHA is proposing for the upcoming year to ensure long-term physical and social viability of its public housing developments. This statement can be completed by using the CFP Annual Statement tables provided in the table library at the end of the PHA Plan template **OR**, at the PHA's option, by completing and attaching a properly updated HUD-52837.

Select one:

☐ The Capital Fund Program Annual Statement is provided as an attachment to the PHA Plan at Attachment (state name)

-or-

☒ The Capital Fund Program Annual Statement is provided below: (if selected, copy the CFP Annual Statement from the Table Library and insert here)

(2) Optional 5-Year Action Plan

Agencies are encouraged to include a 5-Year Action Plan covering capital work items. This statement can be completed by using the 5 Year Action Plan table provided in the table library at the end of the PHA Plan template **OR** by completing and attaching a properly updated HUD-52834.

a. ☒ Yes ☐ No: Is the PHA providing an optional 5-Year Action Plan for the Capital Fund? (if no, skip to sub-component 7B)

b. If yes to question a, select one:

☐ The Capital Fund Program 5-Year Action Plan is provided as an attachment to the PHA Plan at Attachment (state name

-or-

☒ The Capital Fund Program 5-Year Action Plan is provided below: (if selected, copy the CFP optional 5 Year Action Plan from the Table Library and insert here)

7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary

PHA Name: Housing Authority of the County of Monterey	**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:	**Federal FY of Grant: 2007**

☒**Original Annual Statement** ☐**Reserve for Disasters/ Emergencies** ☐**Revised Annual Statement (revision no:)**
☐**Performance and Evaluation Report for Period Ending:** ☐**Final Performance and Evaluation Report**

Line No.	**Summary by Development Account**	**Total Estimated Cost**		**Total Actual Cost**	
		Original	**Revised**	**Obligated**	**Expended**
1	Total non-CFP Funds				
2	1406 Operations	0			
3	1408 Management Improvements	346,971			
4	1410 Administration	173,486			
5	1411 Audit	0			
6	1415 Liquidated Damages	0			
7	1430 Fees and Costs	0			
8	1440 Site Acquisition	0			
9	1450 Site Improvement	0			
10	1460 Dwelling Structures	1,139,400			
11	1465.1 Dwelling Equipment—Nonexpendable	0			
12	1470 Nondwelling Structures	0			
13	1475 Nondwelling Equipment	75,000			
14	1485 Demolition	0			
15	1490 Replacement Reserve	0			
16	1492 Moving to Work Demonstration	0			
17	1495.1 Relocation Costs	0			
18	1499 Development Activities	0			
19	1501 Collaterization or Debt Service	0			
20	1502 Contingency	0			
21	Amount of Annual Grant: (sum of lines 2 – 20)	$1,734,857			
22	Amount of line 21 Related to LBP Activities				
23	Amount of line 21 Related to Section 504 compliance				
24	Amount of line 21 Related to Security – Soft Costs				
25	Amount of Line 21 Related to Security – Hard Costs				
26	Amount of line 21 Related to Energy Conservation				

form **HUD 50075** (03/2006)

7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report **Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary**					
PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:			**Federal FY of Grant: 2007**
☒**Original Annual Statement** ☐**Reserve for Disasters/ Emergencies** ☐**Revised Annual Statement (revision no:)** ☐**Performance and Evaluation Report for Period Ending:** ☐**Final Performance and Evaluation Report**					
Line No.	**Summary by Development Account**	**Total Estimated Cost**		**Total Actual Cost**	
		Original	**Revised**	**Obligated**	**Expended**
	Measures				

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
CA33-1 Hacienda Plaza	Architectural Studies Site Improvements Dwelling Improvements Appliances Non-Dwelling Improvements	1430 1450 1460 1465.2 1470						
CA33-2 Gabilan Vista	Architectural Studies Site Improvements Dwelling Improvements Appliances	1430 1450 1460 1465.2						

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
CA33-3 Casa Santa Lucia	Architectural Studies Site Improvements Dwelling Improvements Appliances	1430 1450 1460 1465.2						
CA33-5 Casa de Oro	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460						
CA33-6 1029 Rider	Architectural Studies Site Improvements Dwelling Structures Appliances	1430 1450 1460 1465.2						
CA33-7 44 Natividad	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460						
CA33-8 Scattered Sites	Architectural Studies Site Improvements-playground Dwelling Structures Appliances	1430 1450.3 1460 1465.2						
1039 North Sanborn	Site Improvements Dwelling Structures Non-expendable equipment	1450 1460 1475		181,500				

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
1058 North Sanborn	Site Improvements Architectural studies Site Improvements Dwelling Structures Non-expendable equipment	1450 1430 1450 1460 1475		580,800				
CA33-9 Rippling River	Legal Architectural Studies Site Improvements Dwelling Structures Non-Dwelling Structures	1410 1430 1450 1460 1470						
CA33-10 Scattered Sites 1011 Laurel 1029 Rider 1112 Alamo	Architectural Studies Site Improvements Dwelling Structures Appliances	1430 1450 1460 1465.2						

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
CA33-11 Scattered Sites	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460						
541 Watson	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460						
242 Montecito	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460						
CA33-12 Los Ositos	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460						
CA33-14 1511-1515 Wheeler	Architectural Studies Site Improvements Dwelling Structures	1430 1450 1460		254,100				

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
CA33-17 Scattered Sites 1062 No. Sanborn 1259 Del Monte 1569 Colusa 514 Alvin 13073 Arthur	Architectural Studies Site Improvements Dwelling Structures Site Improvements – Playground Appliance Replacement Dwelling Structures Dwelling Structures Dwelling Structures	1430 1450 1460 1450.3 1465.2 1460 1460 1460						

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
CA33-18 Scattered Sites	Architectural Studies	1430						
	Site Improvements	1450						
	Dwelling Structures	1460						
	Appliance Replacement	1465.2						
1113 D Street	Site Improvements	1450						
	Dwelling Structures	1460						
1346-1348 Las Cruces	Dwelling Structures	1460						
540 Williams	Dwelling Structures	1460						
312 Williams	Dwelling Structures	1460						
24 Wood Street								
737,747 Mae St.								
1073 Sherman	Dwelling Structures	1460						
18320 Van Buren	Dwelling Structures	1460						
18861 Hoover	Dwelling Structures	1460						
1744 Cherokee	Dwelling Structures	1460						
775 Elkington	Dwelling Structures	1460						
780 Elkington	Dwelling Structures	1460						
1012 Sanborn	Dwelling Structures	1460						

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey		**Grant Type and Number** Capital Fund Program Grant No: CA39P033501-07 Replacement Housing Factor Grant No:				**Federal FY of Grant:** 2007		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	
CA33-19 El-Gin Village	Architectural Studies Site Improvements Dwelling Structures Appliance Replacement	1430 1450 1460 1465.2						
CA33-ALL	Operations Upgrade MIS Continued Administration Overall Site Improvements Overall Dwelling Improvements Non dwelling Equipment Management Improvements Relocation Costs Contingency	1406 1408 1410 1450 1460 1475 1408 1495.1 1502		173,486 123,000 75,000 346,971				
Totals:				**$1,734,857**				

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part III: Implementation Schedule

PHA Name: Housing Authority of the County of Monterey	**Grant Type and Number** Capital Fund Program No: CA39P033501-07 Replacement Housing Factor No:	**Federal FY of Grant:** 2007

Development Number Name/HA-Wide Activities	All Fund Obligated (Quarter Ending Date)			All Funds Expended (Quarter Ending Date)			Reasons for Revised Target Dates
	Original	Revised	Actual	Original	Revised	Actual	

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Capital Fund Program Five-Year Action Plan Part I: Summary					
PHA Name: **Housing Authority of the County of Monterey**				☒**Original 5-Year Plan** ☐**Revision No:**	
Development Number/Name/ HA-Wide	Year 1	Work Statement for Year 2 FFY Grant: 2008 PHA FY: 2009	Work Statement for Year 3 FFY Grant: 2009 PHA FY: 2010	Work Statement for Year 4 FFY Grant: 2010 PHA FY: 2011	Work Statement for Year 5 FFY Grant: 2011 PHA FY: 2012
CA33-5 Casa de Oro			351,384		903,496
CA33-7 Natividad	Annual Statement		351,384	579,784	
CA33-8 1025 Sanborn			131,769		
CA33-8 1039 Sanborn		798,600			
CA33-14 Wheeler		319,440	351,384	386,522	
CA33-17 1259 Del Monte				338,207	425,175
CA 33-19 Casentini					106,294

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7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Physical Dwelling Improvements Subtotal		1,118,040	1,185,921	1,304,513	1,434,964
Management Improvements		381,669	407,286	448,015	492,816
HA-Wide Nondwelling structures and equipment		217,800	239,580	263,538	289,892
Administration		190,834	203,643	224,007	246,408
TOTAL:		**$1,908,343**	**2,036,430**	**2,240,073**	**2,464,080**

Capital Fund Program Five-Year Action Plan
Part II: Supporting Pages—Work Activities

Activities for Year 1	Activities for Year : 2 FFY Grant: 2008 PHA FY: 2009			Activities for Year: 3 FFY Grant: 2009 PHA FY: 2010		
	Development Name/Number	**Major Work Categories**	**Estimated Cost**	**Development Name/Number**	**Major Work Categories**	**Estimated Cost**
See	CA 33-8 1039 Sanborn	Dwelling Rehab 20 units	798,600	CA 33-5 Casa de Oro	Dwelling Rehab 8 units	351,384
Annual	CA 33-14 Wheeler	Dwelling Rehab 8 units	319,440	CA 33-7 Natividad	Dwelling Rehab 8 units	351,384
Statement				CA 33-8 1025 Sanborn	Dwelling Rehab 3 units	131,769
				CA 33-14 Wheeler	Dwelling Rehab 8 units	351,384

form **HUD 50075** (03/2006)

7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

		Physical Dwelling Improvements Subtotal	1,118,040		Physical Dwelling Improvements Subtotal	1,185,921
		Management Improvements	381,669		Management Improvements	407,286
		HA-Wide Nondwelling structures and equipment	217,800		HA-Wide Nondwelling structures and equipment	239,580
		Administration	190,834		Administration	203,643
Total CFP Estimated Cost			$1,908,343			$2,036,430

Capital Fund Program Five-Year Action Plan
Part II: Supporting Pages—Work Activities

Activities for Year : 4 FFY Grant: 2010 PHA FY: 2011			Activities for Year: 5 FFY Grant: 2011 PHA FY: 2012		
Development Name/Number	**Major Work Categories**	**Estimated Cost**	**Development Name/Number**	**Major Work Categories**	**Estimated Cost**
CA 33-7 Natividad	Dwelling Rehab 12 units	579,784	CA 33-5 Casa de Oro	Dwelling Rehab 17 units	903,496
CA 33-14 Wheeler	Dwelling Rehab 8 units	386,522	CA 33-17 1259 Del Monte	Dwelling Rehab 8 units	425,175
CA 33-17 1259 Del Monte	Dwelling Rehab 7 units	338,207	CA 33-19 Casentini	Dwelling Rehab 2 units	106,294
	Physical Dwelling Improvements Subtotal	1,304,513		Physical Dwelling Improvements Subtotal	1,434,964

form **HUD 50075** (03/2006)

7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

	Management Improvements	448,015		Management Improvements	492,816
	HA-Wide Nondwelling structures and equipment	263,538		HA-Wide Nondwelling structures and equipment	289,892
	Administration	224,007		Administration	246,408
Total CFP Estimated Cost		$2,240,073			$2,464,080

form **HUD 50075** (03/2006)

B. HOPE VI and Public Housing Development and Replacement Activities (Non-Capital Fund)

Applicability of sub-component 7B: All PHAs administering public housing. Identify any approved HOPE VI and/or public housing development or replacement activities not described in the Capital Fund Program Annual Statement.

☐ Yes ☒ No: a) Has the PHA received a HOPE VI revitalization grant? (if no, skip to question c; if yes, provide responses to question b for each grant, copying and completing as many times as necessary)

b) Status of HOPE VI revitalization grant (complete one set of questions for each grant)

1. Development name:
2. Development (project) number:
3. Status of grant: (select the statement that best describes the current status)
   - ☐ Revitalization Plan under development
   - ☐ Revitalization Plan submitted, pending approval
   - ☐ Revitalization Plan approved
   - ☐ Activities pursuant to an approved Revitalization Plan underway

☐ Yes ☒ No: c) Does the PHA plan to apply for a HOPE VI Revitalization grant in the Plan year?
If yes, list development name/s below:

☒ Yes ☐ No: d) Will the PHA be engaging in any mixed-finance development activities for public housing in the Plan year?
If yes, list developments or activities below:

See attached matrix (Attachment 5) outlining public housing development and replacement activities

☒ Yes ☐ No: e) Will the PHA be conducting any other public housing development or replacement activities not discussed in the Capital Fund Program Annual Statement?
If yes, list developments or activities below:

HA is reassessing all developments for possible mandatory or voluntary conversion and possible disposition.

8. Demolition and Disposition

[24 CFR Part 903.7 9 (h)]

Applicability of component 8: Section 8 only PHAs are not required to complete this section.

1. ☒ Yes ☐ No: Does the PHA plan to conduct any demolition or disposition activities (pursuant to section 18 of the U.S. Housing Act of 1937 (42 U.S.C. 1437p)) in the plan Fiscal Year? (If "No", skip to component 9; if "yes", complete one activity description for each development.)

2. Activity Description

☐ Yes ☒ No: Has the PHA provided the activities description information in the **optional** Public Housing Asset Management Table? (If "yes", skip to component 9. If "No", complete the Activity Description table below.)

Demolition/Disposition Activity Description
1a. Development name: Laguna Haciendas 1b. Development (project) number: 33-1
2. Activity type: Demolition ☐ Disposition ☒
3. Application status (select one) Approved ☐ Submitted, pending approval ☐ Planned application ☒
4. Date application approved, submitted, or planned for submission: (01/01/08)
5. Number of units affected: 100 plus 1 office building 6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: January 2008 b. Projected end date of activity: June 2008

Demolition/Disposition Activity Description
1a. Development name: Gabilan Vista 1b. Development (project) number: 33-2
2. Activity type: Demolition ☐ Disposition ☒
3. Application status (select one) Approved ☐ Submitted, pending approval ☒ Planned application ☐
4. Date application approved, submitted, or planned for submission: (02/22/07)
5. Number of units affected: 20 6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: March 2007 b. Projected end date of activity: October 2007

Demolition/Disposition Activity Description
1a. Development name: Scattered Sites 1b. Development (project) number: 33-17
2. Activity type: Demolition ☐ Disposition ☒
3. Application status (select one) Approved ☐ Submitted, pending approval ☐ Planned application ☒
4. Date application approved, submitted, or planned for submission: (04/30/07)
5. Number of units affected: 3 6. Coverage of action (select one) ☒ Part of the development ☐ Total development
7. Timeline for activity: a. Actual or projected start date of activity: April 2007 b. Projected end date of activity: July 2007

Demolition/Disposition Activity Description
1a. Development name: Scattered Sites 1b. Development (project) number: 33-18
2. Activity type: Demolition ☐ Disposition ☒
3. Application status (select one) Approved ☐ Submitted, pending approval ☐ Planned application ☒
4. Date application approved, submitted, or planned for submission: (04/30/07)
5. Number of units affected: 6 6. Coverage of action (select one) ☒ Part of the development ☐ Total development
7. Timeline for activity: a. Actual or projected start date of activity: April 2007 b. Projected end date of activity: July 2007

9. Designation of Public Housing for Occupancy by Elderly Families or Families with Disabilities or Elderly Families and Families with Disabilities

[24 CFR Part 903.7 9 (i)]

Exemptions from Component 9; Section 8 only PHAs are not required to complete this section.

1. ☐ Yes ☒ No: Has the PHA designated or applied for approval to designate or does the PHA plan to apply to designate any public housing for occupancy only by the elderly families or only by families with disabilities, or by elderly families and families with disabilities or will apply for designation for occupancy by only elderly families or only families with disabilities, or by elderly families and families with disabilities as provided by section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e) in the upcoming fiscal year? (If "No", skip to component 10. If "yes", complete one activity description for each development, unless the PHA is eligible to complete a streamlined submission; PHAs completing streamlined submissions may skip to component 10.)

2. Activity Description

☐ Yes ☐ No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? If "yes", skip to component 10. If "No", complete the Activity Description table below.

Designation of Public Housing Activity Description
1a. Development name: 1b. Development (project) number:
2. Designation type: Occupancy by only the elderly ☐ Occupancy by families with disabilities ☐ Occupancy by only elderly families and families with disabilities ☐
3. Application status (select one) Approved; included in the PHA's Designation Plan ☐ Submitted, pending approval ☐ Planned application ☐
4. Date this designation approved, submitted, or planned for submission: (DD/MM/YY)
5. If approved, will this designation constitute a (select one) ☐ New Designation Plan ☐ Revision of a previously-approved Designation Plan?
6. Number of units affected: 7. Coverage of action (select one) ☐ Part of the development ☐ Total development

10. Conversion of Public Housing to Tenant-Based Assistance

[24 CFR Part 903.7 9 (j)]

Exemptions from Component 10; Section 8 only PHAs are not required to complete this section.

A. Assessments of Reasonable Revitalization Pursuant to section 202 of the HUD FY 1996 HUD Appropriations Act

1. ☐ Yes ☒ No: Have any of the PHA's developments or portions of developments been identified by HUD or the PHA as covered under section 202 of the HUD FY 1996 HUD Appropriations Act? (If "No", skip to component 11; if "yes", complete one activity description for each identified development, unless eligible to complete a streamlined submission. PHAs completing streamlined submissions may skip to component 11.)

2. Activity Description

☐ Yes ☐ No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? If "yes", skip to component 11. If "No", complete the Activity Description table below.

Conversion of Public Housing Activity Description
1a. Development name: 1b. Development (project) number:
2. What is the status of the required assessment? ☐ Assessment underway ☐ Assessment results submitted to HUD ☐ Assessment results approved by HUD (if marked, proceed to next question) ☐ Other (explain below)
3. ☐ Yes ☐ No: Is a Conversion Plan required? (If yes, go to block 4; if no, go to block 5.)
4. Status of Conversion Plan (select the statement that best describes the current status) ☐ Conversion Plan in development ☐ Conversion Plan submitted to HUD on: (DD/MM/YYYY) ☐ Conversion Plan approved by HUD on: (DD/MM/YYYY) ☐ Activities pursuant to HUD-approved Conversion Plan underway
5. Description of how requirements of Section 202 are being satisfied by means other than conversion (select one) ☐ Units addressed in a pending or approved demolition application (date submitted or approved: ☐ Units addressed in a pending or approved HOPE VI demolition application (date submitted or approved:) ☐ Units addressed in a pending or approved HOPE VI Revitalization Plan (date submitted or approved:) ☐ Requirements no longer applicable: vacancy rates are less than 10 percent ☐ Requirements no longer applicable: site now has less than 300 units ☐ Other: (describe below)

B. Reserved for Conversions pursuant to Section 22 of the U.S. Housing Act of 1937

C. Reserved for Conversions pursuant to Section 33 of the U.S. Housing Act of 1937

11. Homeownership Programs Administered by the PHA

[24 CFR Part 903.7 9 (k)]

A. Public Housing

Exemptions from Component 11A: Section 8 only PHAs are not required to complete 11A.

1. ☐ Yes ☒ No: Does the PHA administer any homeownership programs administered by the PHA under an approved section 5(h) homeownership program (42 U.S.C. 1437c(h)), or an approved HOPE I program (42 U.S.C. 1437aaa) or has the PHA applied or plan to apply to administer any homeownership programs under section 5(h), the HOPE I program, or section 32 of the U.S. Housing Act of 1937 (42 U.S.C. 1437z-4). (If "No", skip to component 11B; if "yes", complete one activity description for each applicable program/plan, unless eligible to complete a streamlined submission due to **small PHA** or **high performing PHA** status. PHAs completing streamlined submissions may skip to component 11B.)

2. Activity Description

☐ Yes ☐ No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? (If "yes", skip to component 12. If "No", complete the Activity Description table below.)

Public Housing Homeownership Activity Description (Complete one for each development affected)
1a. Development name: 1b. Development (project) number:
2. Federal Program authority: ☐ HOPE I ☐ 5(h) ☐ Turnkey III ☐ Section 32 of the USHA of 1937 (effective 10/1/99)
3. Application status: (select one) ☐ Approved; included in the PHA's Homeownership Plan/Program ☐ Submitted, pending approval ☐ Planned application
4. Date Homeownership Plan/Program approved, submitted, or planned for submission: (DD/MM/YYYY)
5. Number of units affected: 6. Coverage of action: (select one) ☐ Part of the development ☐ Total development

B. Section 8 Tenant Based Assistance

1. ☒ Yes ☐ No: Does the PHA plan to administer a Section 8 Homeownership program pursuant to Section 8(y) of the U.S.H.A. of 1937, as implemented by 24 CFR part 982 ? (If "No", skip to component 12; if "yes", describe each program using the table below (copy and complete questions for each program identified), unless the PHA is eligible to complete a streamlined submission due to high performer status. **High performing PHAs** may skip to component 12.)

2. Program Description:

a. Size of Program
☐ Yes ☒ No: Will the PHA limit the number of families participating in the section 8 homeownership option?

A family assisted under this option may be newly admitted or an existing participant in the HCV program. The Housing Authority of the County of Monterey (HACM) offers both forms of assistance; a family must choose which form of assistance to receive: a single down payment assistance grant or monthly homeownership assistance payments.

If the answer to the question above was yes, which statement best describes the number of participants? (select one)
☐ 25 or fewer participants
☐ 26 - 50 participants
☐ 51 to 100 participants
☐ more than 100 participants

b. PHA-established eligibility criteria
☐ Yes ☒ No: Will the PHA's program have eligibility criteria for participation in its Section 8 Homeownership Option program in addition to HUD criteria?
If yes, list criteria below:

12. PHA Community Service and Self-sufficiency Programs

[24 CFR Part 903.7 9 (l)]
Exemptions from Component 12: High performing and small PHAs are not required to complete this component. Section 8-Only PHAs are not required to complete sub-component C.

A. PHA Coordination with the Welfare (TANF) Agency

1. Cooperative agreements:
☒ Yes ☐ No: Has the PHA has entered into a cooperative agreement with the TANF Agency, to share information and/or target supportive services (as contemplated by section 12(d)(7) of the Housing Act of 1937)?

If yes, what was the date that agreement was signed? 05/12/1999

2. Other coordination efforts between the PHA and TANF agency (select all that apply)

- ☒ Client referrals
- ☒ Information sharing regarding mutual clients (for rent determinations and otherwise)
- ☒ Coordinate the provision of specific social and self-sufficiency services and programs to eligible families
- ☐ Jointly administer programs
- ☒ Partner to administer a HUD Welfare-to-Work voucher program
- ☐ Joint administration of other demonstration program
- ☐ Other (describe)

B. Services and programs offered to residents and participants

(1) General

a. Self-Sufficiency Policies

Which, if any of the following discretionary policies will the PHA employ to enhance the economic and social self-sufficiency of assisted families in the following areas? (select all that apply)

- ☒ Public housing rent determination policies
- ☒ Public housing admissions policies
- ☐ Section 8 admissions policies
- ☐ Preference in admission to section 8 for certain public housing families
- ☒ Preferences for families working or engaging in training or education programs for non-housing programs operated or coordinated by the PHA
- ☐ Preference/eligibility for public housing homeownership option participation
- ☐ Preference/eligibility for section 8 homeownership option participation
- ☐ Other policies (list below)

b. Economic and Social self-sufficiency programs

☐ Yes ☒ No: Does the PHA coordinate, promote or provide any programs to enhance the economic and social self-sufficiency of residents? (If "yes", complete the following table; if "no" skip to sub-component 2, Family Self Sufficiency Programs. The position of the table may be altered to facilitate its use.)

Services and Programs				
Program Name & Description (including location, if appropriate)	Estimated Size	Allocation Method (waiting list/random selection/specific criteria/other)	Access (development office / PHA main office / other provider name)	Eligibility (public housing or section 8 participants or both)

(2) Family Self Sufficiency program/s

a. Participation Description

Family Self Sufficiency (FSS) Participation		
Program	Required Number of Participants (start of FY 2007 Estimate)	Actual Number of Participants (As of: 03/31/07)
Public Housing	0	0
Section 8	88	152

b. ☒ Yes ☐ No: If the PHA is not maintaining the minimum program size required by HUD, does the most recent FSS Action Plan address the steps the PHA plans to take to achieve at least the minimum program size?
If no, list steps the PHA will take below:

C. Welfare Benefit Reductions

1. The PHA is complying with the statutory requirements of section 12(d) of the U.S. Housing Act of 1937 (relating to the treatment of income changes resulting from welfare program requirements) by: (select all that apply)

☒ Adopting appropriate changes to the PHA's public housing rent determination policies and train staff to carry out those policies
☒ Informing residents of new policy on admission and reexamination
☒ Actively notifying residents of new policy at times in addition to admission and reexamination.
☒ Establishing or pursuing a cooperative agreement with all appropriate TANF agencies regarding the exchange of information and coordination of services

☒ Establishing a protocol for exchange of information with all appropriate TANF agencies
☐ Other: (list below)

D. Reserved for Community Service Requirement pursuant to section 12(c) of the U.S. Housing Act of 1937

13. PHA Safety and Crime Prevention Measures

[24 CFR Part 903.7 9 (m)]

Exemptions from Component 13: High performing and small PHAs not participating in PHDEP and Section 8 Only PHAs may skip to component 15. High Performing and small PHAs that are participating in PHDEP and are submitting a PHDEP Plan with this PHA Plan may skip to sub-component D.

A. Need for measures to ensure the safety of public housing residents

1. Describe the need for measures to ensure the safety of public housing residents (select all that apply)

☐ High incidence of violent and/or drug-related crime in some or all of the PHA's developments
☐ High incidence of violent and/or drug-related crime in the areas surrounding or adjacent to the PHA's developments
☐ Residents fearful for their safety and/or the safety of their children
☒ Observed lower-level crime, vandalism and/or graffiti
☐ People on waiting list unwilling to move into one or more developments due to perceived and/or actual levels of violent and/or drug-related crime
☐ Other (describe below)

2. What information or data did the PHA used to determine the need for PHA actions to improve safety of residents (select all that apply).

☐ Safety and security survey of residents
☐ Analysis of crime statistics over time for crimes committed “in and around” public housing authority
☐ Analysis of cost trends over time for repair of vandalism and removal of graffiti
☒ Resident reports
☒ PHA employee reports
☒ Police reports
☐ Demonstrable, quantifiable success with previous or ongoing anticrime/anti drug programs
☐ Other (describe below)

3. Which developments are most affected? (list below)

33-1
33-7
33-8
33-17

B. Crime and Drug Prevention activities the PHA has undertaken or plans to undertake in the next PHA fiscal year

1. List the crime prevention activities the PHA has undertaken or plans to undertake: (select all that apply)

☐ Contracting with outside and/or resident organizations for the provision of crime- and/or drug-prevention activities
☐ Crime Prevention Through Environmental Design
☐ Activities targeted to at-risk youth, adults, or seniors
☒ Volunteer Resident Patrol/Block Watchers Program
☐ Other (describe below)

2. Which developments are most affected? (list below)

33-1
33-8

C. Coordination between PHA and the police

1. Describe the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities: (select all that apply)

☐ Police involvement in development, implementation, and/or ongoing evaluation of drug-elimination plan
☐ Police provide crime data to housing authority staff for analysis and action
☒ Police have established a physical presence on housing authority property (e.g., community policing office, officer in residence)
☒ Police regularly testify in and otherwise support eviction cases
☒ Police regularly meet with the PHA management and residents
☐ Agreement between PHA and local law enforcement agency for provision of above-baseline law enforcement services
☐ Other activities (list below)

2. Which developments are most affected? (list below)

33-1
33-7
33-8
33-17

D. Additional information as required by PHDEP/PHDEP Plan

PHAs eligible for FY 2005 PHDEP funds must provide a PHDEP Plan meeting specified requirements prior to receipt of PHDEP funds.

☐ Yes ☐ No: Is the PHA eligible to participate in the PHDEP in the fiscal year covered by this PHA Plan?
☐ Yes ☐ No: Has the PHA included the PHDEP Plan for FY 2005 in this PHA Plan?
☐ Yes ☐ No: This PHDEP Plan is an Attachment. (Attachment Filename: ___)

14. RESERVED FOR PET POLICY

[24 CFR Part 903.7 9 (n)]

Chapter 10 of Admissions and Continued Occupancy Plan

15. Civil Rights Certifications

[24 CFR Part 903.7 9 (o)]

Civil rights certifications are included in the PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations.

16. Fiscal Audit

[24 CFR Part 903.7 9 (p)]

1. ☒ Yes ☐ No: Is the PHA required to have an audit conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U S.C. 1437c(h))?
(If no, skip to component 17.)
2. ☒ Yes ☐ No: Was the most recent fiscal audit submitted to HUD?
3. ☐ Yes ☒ No: Were there any findings as the result of that audit?
4. ☐ Yes ☐ No: If there were any findings, do any remain unresolved?
If yes, how many unresolved findings remain?____
5. ☐ Yes ☐ No: Have responses to any unresolved findings been submitted to HUD?
If not, when are they due (state below)?

17. PHA Asset Management

[24 CFR Part 903.7 9 (q)]

Exemptions from component 17: Section 8 Only PHAs are not required to complete this component. High performing and small PHAs are not required to complete this component.

1. ☐ Yes ☒ No: Is the PHA engaging in any activities that will contribute to the long-term asset management of its public housing stock , including how the Agency will plan for long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs that have **not** been addressed elsewhere in this PHA Plan?

2. What types of asset management activities will the PHA undertake? (select all that apply)
☐ Not applicable
☐ Private management
☐ Development-based accounting
☐ Comprehensive stock assessment
☐ Other: (list below)

3. ☐ Yes ☐ No: Has the PHA included descriptions of asset management activities in the **optional** Public Housing Asset Management Table?

18. Other Information

[24 CFR Part 903.7 9 (r)]

A. Resident Advisory Board Recommendations

1. ☒ Yes ☐ No: Did the PHA receive any comments on the PHA Plan from the Resident Advisory Board/s?

2. If yes, the comments are: (if comments were received, the PHA **MUST** select one)
☐ Attached at Attachment (File name)
☒ Provided below:

1. *Several residents inquired about exterior paint on buildings, addition of playground equipment and additional parking spaces.*
2. *Several residents had questions regarding their individual circumstances.*
3. *A couple of residents had questions regarding our project based Section 8 program.*

3. In what manner did the PHA address those comments? (select all that apply)
☒ Considered comments, but determined that no changes to the PHA Plan were necessary.
☐ The PHA changed portions of the PHA Plan in response to comments
List changes below:

☒ Other: (list below)

1. *Staff involved in the Agency Plan process answered residents questions or directed them to the appropriate Housing Authority staff member.*
2. *Staff gave tenants an explanation on the Capital Fund activities and how they are prioritized according to the immediate needs of each development.*
3. *Staff informed tenants of our Section 8 project based program and our successful implementation.*

B. Description of Election process for Residents on the PHA Board

1. ☐ Yes ☒ No: Does the PHA meet the exemption criteria provided section 2(b)(2) of the U.S. Housing Act of 1937? (If no, continue to question 2; if yes, skip to sub-component C.)

2. ☒ Yes ☐ No: Was the resident who serves on the PHA Board elected by the residents? (If yes, continue to question 3; if no, skip to sub-component C.)

3. Description of Resident Election Process

a. Nomination of candidates for place on the ballot: (select all that apply)

☐ Candidates were nominated by resident and assisted family organizations
☒ Candidates could be nominated by any adult recipient of PHA assistance
☒ Self-nomination: Candidates registered with the PHA and requested a place on ballot
☐ Other: (describe)

b. Eligible candidates: (select one)

☐ Any recipient of PHA assistance
☒ Any head of household receiving PHA assistance
☐ Any adult recipient of PHA assistance
☐ Any adult member of a resident or assisted family organization
☐ Other (list)

c. Eligible voters: (select all that apply)

☒ All adult recipients of PHA assistance (public housing and section 8 tenant-based assistance)
☒ Representatives of all PHA resident and assisted family organizations
☐ Other (list)

C. Statement of Consistency with the Consolidated Plan

For each applicable Consolidated Plan, make the following statement (copy questions as many times as necessary).

1. Consolidated Plan jurisdiction: (provide name here)
Monterey, Seaside, Salinas and Monterey County

2. The PHA has taken the following steps to ensure consistency of this PHA Plan with the Consolidated Plan for the jurisdiction: (select all that apply)
Monterey, Seaside, Salinas and Monterey County

☒ The PHA has based its statement of needs of families in the jurisdiction on the needs expressed in the Consolidated Plan/s.

☒ The PHA has participated in any consultation process organized and offered by the Consolidated Plan agency in the development of the Consolidated Plan.

☒ The PHA has consulted with the Consolidated Plan agency during the development of this PHA Plan.

☒ Activities to be undertaken by the PHA in the coming year are consistent with the initiatives contained in the Consolidated Plan. (list below)
More coordinated meetings with City and County representatives.

☐ Other: (list below)

4. The Consolidated Plan of the jurisdiction supports the PHA Plan with the following actions and commitments: (describe below)

D. Other Information Required by HUD

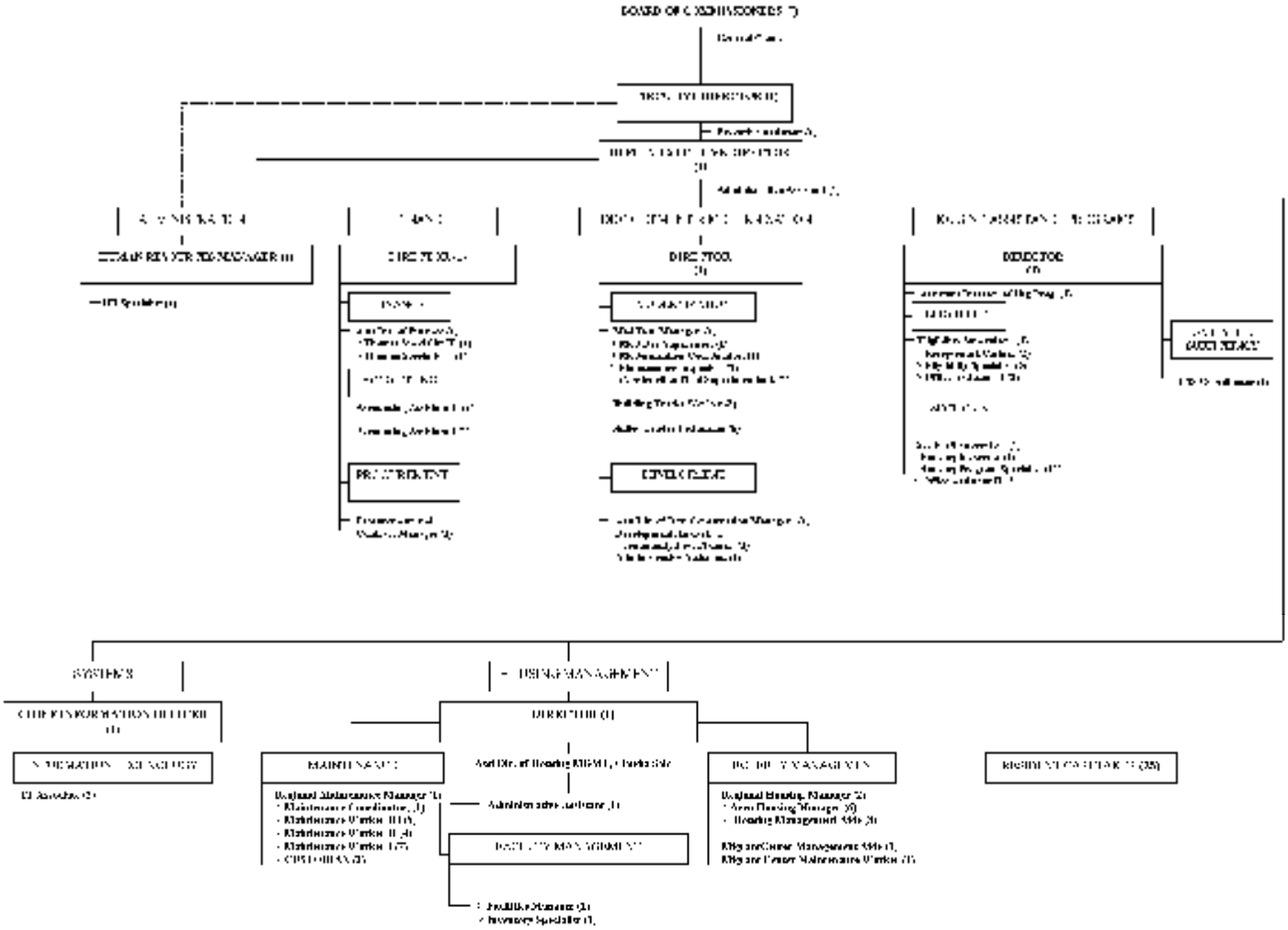
Use this section to provide any additional information requested by HUD.

Attachments

Use this section to provide any additional attachments referenced in the Plans.

Attachment 1

Organizational Chart



form **HUD 50075** (03/2006)

Attachment 2

Pet Ownership in Public Housing

Residents will comply with the dwelling lease, which requires that no animals or pets of any kind are permitted on the premises without prior written approval of the HA. This does not apply to animals that are used to assist, support, or provide service to persons with disabilities.

Tenants with animals must pay a pet deposit. The resident/pet owner shall be required to pay a refundable $300.00 deposit for the purpose of defraying all reasonable costs directly attributable to the presence of a dog or cat. An individual deposit will be required for each pet. All reasonable expenses incurred by the HA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:
The cost of repairs and replacements to the resident's dwelling unit;
Fumigation of the dwelling unit;
Common areas of the project.
Pet deposits are not part of rent payable by the resident.

In Family Public Housing there is a minimal monthly fee to cover the reasonable operating costs to the project relating to the presence of pet.

A resident may keep no types of pets other than the following: Dogs, Cats, Birds, Fish, Rodents (rabbit, guinea pig, hamster, or gerbil ONLY)
Tenants are not permitted to have more than two (2) common household pets, except that only one may be a cat or a dog as defined in the Pet Policy chapter of Public Housing Admissions and Continued Occupancy Plan.

No pet (excluding fish) shall be left unattended in any apartment for a period in excess of 24 hours. HACM reserves the right to enter and/or remove pets(s) and transfer them to the proper authorities should a pet(s) are left unattended in or out of the apartment for more than twenty-four (24) hours.

Attachment 3

Membership of the Resident Advisory Board

Jose Contreras
Olivia Gomez de Leon
Sara Robles
Aurora Contreras
Alma Vasquez
Sonia Catsro
Richard Rangel
Darlene Rangel
Lupe Gutierrez
Beatriz Camacho
Jose Camacho
Margaret Gonzalez
Gustavo Torres
Jesse Trevino
Carol Trevino
Roberta Silva Velez
Alvaro Camacho
Servando Gonzalez
Daniel Martinez
Martha Saldana
Refugio Reyna
Antonio Andrade
Connie Martniez
Arturo Castorena
Margarita Vargas
Yolanda Vigil
Teresa Padilla

Attachment 4

Resident Membership of the PHA Governing Board

Name	Method of Selection	Term of Appointment
Merri Bilek	Appointment	2 years
Richard Rangel	Appointment	2 years

Attachment 5

PUBLIC HOUSING DEVELOPMENT AND REPLACEMENT ACTIVITIES

The Housing Authority has plans currently or in the future, of the development and/or replacement of public housing utilizing the disposition or demolition/disposition process in the forthcoming annual plan year (see Public Housing Development and Replacement Activities matrix below).

The Housing Authority also has plans currently or in the future, to engage in mixed-finance development and/or activities in the forthcoming annual plan year (see Public Housing Development and Replacement Activities matrix below).

Public Housing Development and Replacement Activities Matrix

(see below)

Project #	Type of Housing Units	Type of Dwelling	# of Units	Address	Location	Mixed Financing Proposed?	Planned Action	Status of Planned Action
33-1	Family/ Office Building	Garden Apts. / 1 Office Building	100 plus 1 Office Building at 134 E. Rossi	Calle Sabu, Hacienda & E. Rossi Streets	Salinas, CA	Yes	Disposition	Submission of application planned for 1st qtr 2008
33-2	Family	Garden Apts.	20	401- 429 Gabilan Court	Gonzales, CA	Yes	Disposition	Submission of application planned for 1st qtr 2007
33-17	Family – Scattered Sites	Single Family	1	514 E. Alvin	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-17	Family – Scattered Sites	Single Family	1	1569 Chusa	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-17	Family – Scattered Sites	Single Family	1	13073 Arthur	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-18	Family – Scattered Sites	Single Family	1	1744 Cherokee (A)	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-18	Family – Scattered Sites	Single Family	1	18320 Van Buren	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-18	Family – Scattered Sites	Single Family	1	1073 Sherman	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-18	Family – Scattered Sites	Single Family	1	1346 Las Cruces	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-18	Family – Scattered Sites	Single Family	1	1348 Las Cruces	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007
33-18	Family – Scattered Sites	Single Family	1	18861 Hoover	Salinas, CA	Yes	Disposition	Submission of application planned for 2nd qtr 2007

Attachment 6

Housing Authority of the County of Monterey
Section 3 Policy

PURPOSE:

To provide equal employment and economic opportunity in direct employment and/or contracting with The Housing Authority of the County of Monterey, herein referred to as HACM.

POLICY:
It is the policy of HACM to ensure that employment and other economic opportunities generated by HUD or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing in accordance with the regulations in 24 CFR Part 135

DEFINITIONS:

Section 3 is the legal basis for providing jobs for residents and awarding contracts to businesses in areas receiving certain types of HUD financial assistance. Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is given for housing or community development, to the greatest extent feasible, economic opportunities will be given to residents and businesses in that area. (Area for HACM is Monterey County.)

Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction, which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 qualified persons are those residents of public housing, Section 8 recipients and low and very low income persons who live in an area in which a HUD-assisted project is located. (For HACM this area is Monterey County.)

Section 3 business is majority owned by Section 3 residents or whose full time employees are at least 30% Section 3 residents (or had 30% Section 3 residents employed full time within three years of the date of first employment with HACM) or subcontracts in excess of 25% of the dollar award to Section 3 businesses.

Low Income is defined by HUD as a person whose household income is 80% or below the area median income adjusted for household size.

Very Low Income is defined by HUD as a person whose household income is 50% or below the area median income adjusted for household size.

SECTION 3 QUALIFIED CONTRACTS:

Section 3 qualified contracts will contain:

1. HUD 5370 General Conditions for contract for Construction, which contains the necessary clause for Section 3

2. The HACM Section 3 Rider form will be included in the bid packet to be completed by the bidding contractor/subcontractor or its agents.

3. Minimum HUD assistance for a contract to qualify under section 3 must exceed 200,000.00.

4. It is the sole responsibility of the contractors, subcontractors and or its agents bidding and or awarded Section 3 contracts, to comply with Title 24,Chapter 1 Part 135 Equal Opportunities for Low and Very Low Income Persons, when stating section 3 qualifications for contract. This includes all forms, disclosures and complying with all reporting requirements.

IMPLEMENTATION:

The HACM will implement this policy covering Section 3 of the HUD Act of 1964, by means of the Section 3 Program outlined below. Procedures adopted will include, at a minimum

Employment and Training:

1. HACM will post notices of job opportunities in media where Section 3 qualified residents customarily search for job announcements.

2. HACM will notify residents and Section 8 clients of Housing Authority job openings in the lobby of main office and through the agency website.

Contracting: HACM shall include in each contract the section 3 clause:

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

A. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

B. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship

and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

C. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

D. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

E. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)."

Introduction

ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

AUTHORITIES IN THE MODEL ADMINISTRATIVE PLAN

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE MODEL ADMINISTRATIVE PLAN

The model administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the model administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the model administrative plan or that may be helpful to you.

Abbreviations

Throughout the model administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited in the model administrative plan.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

Resources and Where to Find Them

Following is a list of resources helpful to the PHA or referenced in the model administrative plan, and the online location of each.

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://www.hudclips.org/sub_nonhud/cgi/pdf/24672.pdf
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice http://www.hudclips.org/sub_nonhud/cgi/pdf/3365.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm

Federal Register http://www.access.gpo.gov/su_docs/aces/fr-cont.html
General Income and Rent Determination FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001. www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD Guidelines for Projecting Annual Income When Upfront Income Verification (UIV) Data is Available http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/guideprojincome.doc
HUD-50058 Instruction Booklet http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf
Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 http://www.hudclips.org/sub_nonhud/cgi/pdf/31267.pdf
OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133/a133.html
PIH Notice 2002-01 (HA), Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/02/pih2002-1.pdf
PIH Notice 2004-01 (HA), Verification Guidance, March 9, 2004. www.hud.gov/offices/pih/publications/notices/04/pih2004-1.pdf
PIH Notice 2004-18 (HA), Verification of Social Security (SS) and Supplemental Security Income (SSI) Benefits. http://www.hud.gov/offices/pih/publications/notices/04/pih2004-18.pdf
PIH Notice 2005-01 (HA), Implementation of the Consolidated Appropriations Act (HR 4818 – H Rept 108-792), 2005 Funding Provisions for the Housing Choice Voucher Program. http://www.hud.gov/offices/pih/publications/notices/05/pih2005-1.pdf
PIH Notice 2005-7 (HA), Rental Integrity Monitoring (RIM) Disallowed Costs and Sanctions Under the Rental Housing Integrity Improvement Project (RHIIP) Initiative http://www.hud.gov/offices/pih/publications/notices/05/pih2005-7.pdf
PIH Notice 2005-9 (HA), Public Housing Agency (PHA) Flexibility to Manage the Housing Choice Voucher Program in 2005. http://www.hud.gov/offices/pih/publications/notices/05/pih2005-9.pdf
PIH Notice 2006-23 (HA), Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 http://www.hud.gov/offices/pih/publications/notices/06/pih2006-23.pdf

Project-Based Voucher Program; Final Rule http://www.hudclips.org/sub_nonhud/cgi/pdf/20035.pdf
Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions. www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm
Verification FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm

The HUD website is http://www.hud.gov/index.html.

Guidebooks, handbooks and other HUD published and federal resources may be found at the HUDClips website: www.hudclips.org.

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the County of Monterey (HACM) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The HACM is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The HACM enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The HACM must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

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

There are three parts to this chapter:

> Part I: The Housing Authority of the County of Monterey (HACM) This part includes a description of the HACM, its jurisdiction, its programs, and its mission and intent.
>
> Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.
>
> Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE HACM

1-I.A. OVERVIEW

This part explains the origin of the HACM's creation and authorization, the general structure of the organization, and the relationship between the HACM Board and staff.

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

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Housing Authority of the County of Monterey for the jurisdiction of Monterey County.

The officials of the HACM are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed by the Board of Supervisors to include two tenant commissioners by establishing policies under which the HACM conducts business, ensuring that policies are followed by HACM staff and ensuring that the HACM is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the HACM are taken through written and signed resolutions, adopted by the board of commissioners and entered into the official records of the HACM.

The principal staff member of the HACM is the executive director (ED), hired and appointed by the board of commissioners. The executive director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training

and supervising the remainder of the HACM's staff in order to manage the day-to-day operations of the HACM to ensure compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

1-I.C. HACM MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

The HACM's mission statement is:

> *To provide and encourage quality affordable housing and related services to eligible residents of Monterey County.*

1-I.D. THE HACM'S PROGRAMS

The following programs are included under this administrative plan:

Housing Choice Voucher Program	Welfare to Work
Family Unification Program	Shelter Plus Care
Project-Based Voucher Program	Family Self-Sufficiency
HCV down payment assistance program	HCV Homeownership Program
Mainstream housing for persons with disabilities	

1-I.E. THE HACM'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the HACM is committed to providing excellent service to HCV program participants – families and owners – in the community. The HACM's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the HACM's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the HACM's support systems and commitment to our employees and their development.

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

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program.

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

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

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

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of

adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as "conforming" rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

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

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

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

1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The HACM is afforded choices in the operation of the program, which are included in the HACM's administrative plan, a document approved by the board of commissioners of the HACM.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the HACM's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions. The HACM may deny portability to jurisdictions with higher FMRs and payment standards than those of the HACM due to insufficient funding.

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

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

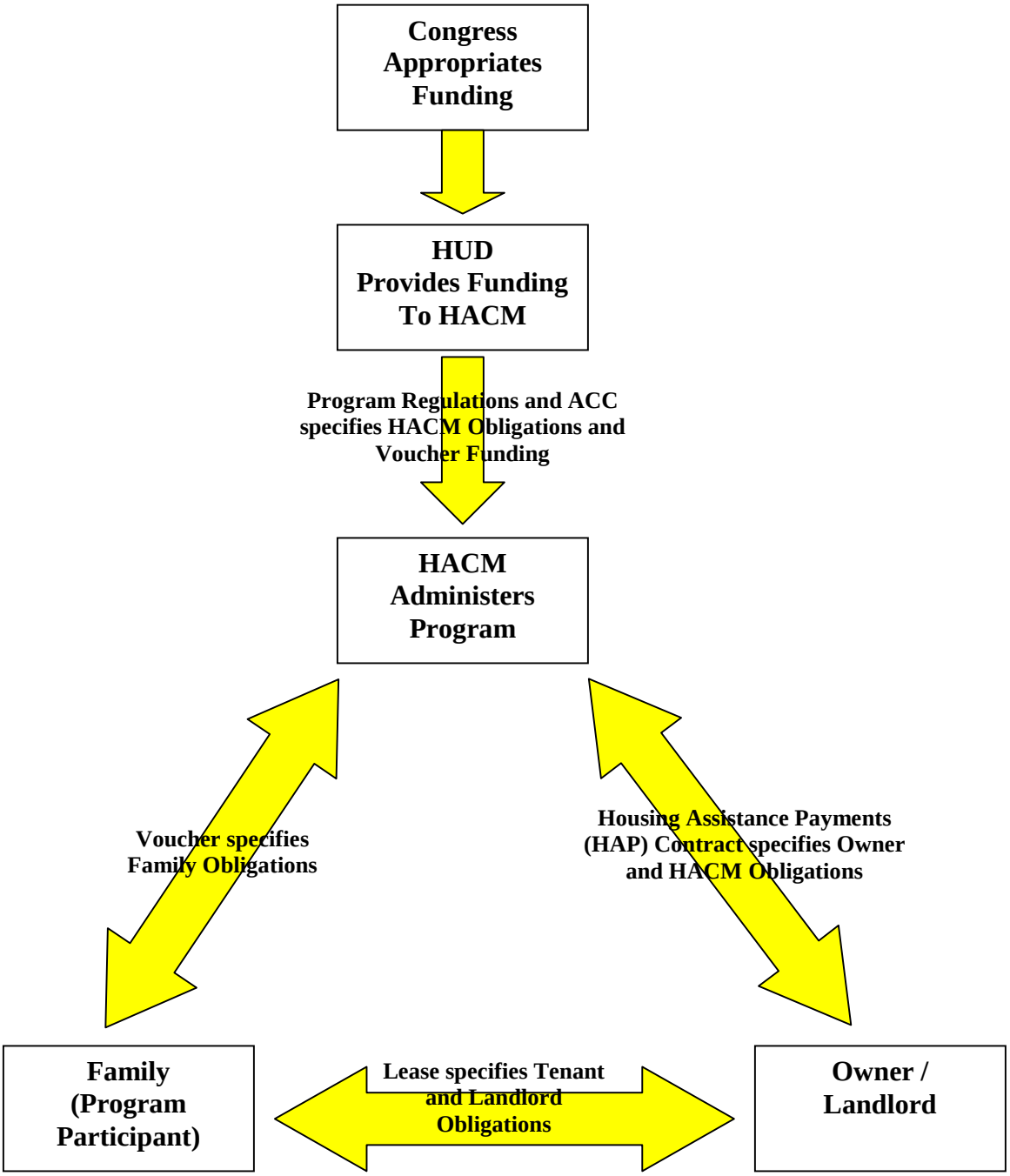
1-II.C. THE HCV PARTNERSHIPS

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

For the HCV program to work and be successful, all parties involved – HUD, the HACM, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

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

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

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

What does the HACM do?

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

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

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
    - The HACM can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.

- The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract, executed with the HACM;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

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

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

1-II.D. APPLICABLE REGULATIONS

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

PART III. THE HCV ADMINISTRATIVE PLAN

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

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the HACM's agency plan. This administrative plan is a supporting document to the HACM agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the HACM's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document, are governed by such federal regulations, HUD handbooks and guidebooks, notices and 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.

The HACM is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of HACM staff shall be in compliance with the HACM's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the administrative plan. The HACM administrative plan must cover HACM policies on these subjects:

- Selection and admission of applicants from the HACM waiting list, including any HACM admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the HACM waiting list (Chapter 4);
- Issuing or denying vouchers, including HACM policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the HACM decides to allow extensions or suspensions of the voucher term, the HACM administrative plan must describe how the HACM determines whether to grant extensions or suspensions, and how the HACM determines the length of any extension or suspension (Chapter 5);

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

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and

- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects HACM to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the HACM has adopted. The HACM's administrative plan is the foundation of those policies and procedures. HUD's new directions require, more than ever, that PHAs make policy choices to provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with Limited English Proficiency (LEP). This part incorporates HUD and DOJ's Notice of Guidance, published December 19, 2003 in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require public housing agencies to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The HACM will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

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

- Violence Against Women Reauthorization Act of 2005 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as HACM policies, can prohibit discrimination against additional classes of people.

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

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

The HACM will not discriminate on the basis of marital status or sexual orientation.

The HACM will not use any of these factors to:

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

Providing Information to Families and Owners

The HACM must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the HACM must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of

neighborhoods [24 CFR 982.301].The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints

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

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the HACM either orally or in writing.

The HACM will attempt to remedy discrimination complaints made against the HACM.

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

PART II: POLICIES RELATED TO PERSONS WITH DISABILTIES

2-II.A. OVERVIEW

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

The HACM must ensure that persons with disabilities have full access to the HACM's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

The HACM will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HACM, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the HACM can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the HACM range) if the HACM determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACM staff
- Displaying posters and other housing information in locations throughout the HACM's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the HACM treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

If the need for the accommodation is not readily apparent or known to the HACM, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

The HACM will encourage the family to make its request in writing using a reasonable accommodation request form. However, the HACM will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability, which is used for waiting list preferences and income allowances.

Before providing an accommodation, the HACM must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's

access to the HACM's programs and services.

If a person's disability is obvious, or otherwise known to the HACM, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the HACM, the HACM must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the HACM will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The HACM must request only information that is necessary to evaluate the disability-related need for the accommodation. The HACM will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the HACM at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the HACM may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the HACM may verify the need for the requested accommodation.

After a request for an accommodation is presented, the HACM will respond, in writing, within 14 calendar days.

If the HACM denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the HACM's operations), the HACM will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the HACM believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HACM will notify the family, in writing, of its determination within 14 calendar days from the date of the most recent discussion or communication with the family.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the HACM to ensure that persons with disabilities related to hearing and vision have reasonable access to the HACM's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the HACM shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication is available. (831-754-2951)

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

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

2-II.G. PHYSICAL ACCESSIBILITY

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

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968

- The Fair Housing Act of 1988

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

- This plan describes the key policies that govern the HACM's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.
- The HACM Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A HACM's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the HACM's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of the HACM's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the HACM must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the HACM's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the HACM must make the accommodation.

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

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

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

In order to determine the level of access needed by LEP persons, the HACM will balance the following four factors:

(1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program;

(2) The frequency with which LEP persons come into contact with the program

(3) The nature and importance of the program, activity, or service provided by the program to people's lives; and

(4) The resources available to the HACM and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HACM.

2-III.B. ORAL INTERPRETATION

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

The HACM will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the HACM will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible, the HACM will encourage the use of qualified community volunteers.

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

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

In order to comply with written-translation obligations, the HACM will take the following steps:

- The HACM will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the HACM does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the HACM shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the HACM determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the HACM's Housing Choice Voucher program and services.

The HACM has determined it is appropriate to develop a written LEP plan, and the following five steps will be taken:

(1) Identifying LEP individuals who need language assistance;

(2) Identifying language assistance measures;

(3) Training staff;

(4) Providing notice to LEP persons; and

(5) Monitoring and updating the LEP plan.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "**physical or mental impairment**" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"**Major life activities**" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"**Has a record of such impairment**" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"**Is regarded as having an impairment**" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the HACM) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program the applicant family must:

- Qualify as a family as defined by HUD and the HACM.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for family members as required.
- Consent to the HACM's collection and use of family information as provided for in HACM-provided consent forms.

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

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13]

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

Family

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or

children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. The HACM has the discretion to determine if any other group of persons qualifies as a family.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

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

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

Family Break-up [24 CFR 982.315]

The HACM has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the HACM is bound by the court's determination of which family members continue to receive assistance.

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

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

In the absence of a judicial decision, or an agreement among the original family members, the HACM will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors:

1. The interest of any minor children, including custody arrangements;
2. The interest of any ill, elderly, or disabled family members;
3. Any possible risks to family members as a result of domestic violence or criminal activity; and
4. The recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

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

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

The family may designate any qualified family member as the head of household.

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

3-I.E. SPOUSE, CO-HEAD AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

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

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

Minors who are emancipated under state law may be designated as a co-head.

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

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

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

Joint Custody of Dependents

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

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

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

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

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

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

Persons with Disabilities

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

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

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

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

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

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

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

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

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

3.I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13].

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

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

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

Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HACM indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

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

Absent Head, Spouse, or Co-head

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

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

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

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

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

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

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

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

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

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

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

The person has been on a federal housing program and been evicted from public housing or terminated from Section 8 due to program violations;

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

The person is or has been engaged in other criminal activity which may threaten the health or safety of other residents of the premises or vicinity or which may threaten the health or safety of the owner, property management staff, or persons performing adminstrative functions or responsibilities on behalf of the HACM, including a HACM employee;

The person has an abuse or pattern of abuse of alcohol that may adversely affect the health or safety of, or the right to peaceful enjoyment of the premises by, other residents and persons residing in the immediate vicinity of the premises:

The person is subject to a lifetime registration requirement under a State Sex Offender Registration program;

The person has been convicted of manufacturing or producing methamphetamine, they are permanently prohibited:

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

Within 14 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the HACM will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the housing choice voucher program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families [24 CFR 5.603(b)]

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

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

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

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

  The HACM will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the HACM.
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

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

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

Using Income Limits for Targeting [24 CFR 982.201]

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

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent income targeting.

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

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

Eligible Noncitizens

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

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

Ineligible Noncitizens

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

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

citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

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

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

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

The HACM will not provide assistance to a family before the verification of all family members.

When a HA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 14 calendar days of the determination.

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

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

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

3-II.C.SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

For every family member age 6 or older the family must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a family member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be

provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member who is at least six years of age is added to the family, the new member's SSN documentation must be submitted at the family's next interim or regular reexamination, whichever comes first. If any member of the family who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

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

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

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

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06]

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

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

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

Definitions

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

Dependent Child

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the

definition of *dependent* in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

Independent Student

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

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.

  To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

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

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

  -Be a veteran of the U.S. Armed Forces

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

  -Be a graduate or professional student

  -Be married

  -The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.

  -The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

Institution of Higher Education

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

Parents

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

Veteran

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

Determining Student Eligibility

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

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

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program
- Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

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

Determining Parental Income Eligibility

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

- If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits the HACM to deny assistance based on certain types of current or past behaviors of family members.

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

Denial of assistance includes any of the following:

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

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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

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

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

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

- Any member of the household has been evicted from federally assisted housing in the last five (5) years for drug-related criminal activity. HUD permits, but does not require, the housing agencies to admit an otherwise-eligible family if the household member has completed a HACM-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  The HACM will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 years for drug-related criminal activity, if the HACM is

able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HACM, or the person who committed the crime, is no longer living in the household.

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

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

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

  In determining reasonable cause, the HACM will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The HACM will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

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

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

Criminal Activity [24 CFR 982.553]

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

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied assistance.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

The family must not have violated any family obligation during a previous participation in the Section 8 program for five years prior to final eligibility determination.

The HA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

The family must pay any outstanding debt owed the HA or another HA as a result of prior participation in any federal housing program within 30 days of HA notice to repay.

The family must be in good standing regarding any current payment agreement made with another HA for a previous debt incurred, before this HA will allow participation in its Section 8 program.

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

If any household member has engaged in drug related or violent criminal activity. The exclusion shall be for five years. The HA may consider extenuating circumstances in appropriate cases.

If any household member is subject to a lifetime registration requirement under a Sate sex offender registration program, they are permanently prohibited from admission to the Section 8 Program.

If any household member has been convicted of manufacturing or producing methamphetamine, they are permanently prohibited admission to the Section 8 Program.

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

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

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

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

- Any conviction for drug-related or violent criminal activity within the past 5 years.
- Any arrests for drug-related or violent criminal activity within the past 5 years.
- Any record of eviction from public or privately owned housing as a result of criminal activity within the past 5 years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

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

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

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

The HACM will not deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

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

- The family does not provide information that the HACM or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the HACM.
- Any family member has been evicted from federally assisted housing in the last five years.
- Any HA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any HA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any HA for amounts the HA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with the HACM, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward HACM personnel.
    - *Abusive or violent behavior towards HACM personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

3-III.D. SCREENING

Screening for Eligibility

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

The HACM will perform a criminal background check through local law enforcement or other authorized agency for every adult household member.

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

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

Screening for Suitability as a Tenant [24 CFR 982.307]

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

The HACM *will not* conduct additional screening to determine an applicant family's suitability for tenancy.

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

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

The HACM will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The HACM will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

The HACM will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

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

HUD authorizes the HACM to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).
The HACM will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- The HACM will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

HUD permits PHAs to impose as a condition of admission, arequirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

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

Prior to admission to the program, the family must present evidence of the former family member's current address upon HACM request.

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

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

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the HACM will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

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

The family will be notified of a decision to deny assistance in writing within 14 calendar days of the determination.

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

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, the HACM will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 14 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the HACM to dispute the information within that 14-day period, the HACM will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

The Violence Against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(1) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- *That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.*

Definitions

As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
  - Any other person living in the household of that person and related to that person by blood and marriage.

Notification and Victim Documentation

The HACM acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under the HACM's policies. Therefore, if the HACM makes a determination to deny admission to an applicant family, the HACM will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One of the following:

A police or court record documenting the actual or threatened abuse, or

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the HACM will grant an extension of 14 calendar days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the HACM determines the family is eligible for assistance, no informal review will be scheduled and the HACM will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the HACM will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

HACM Confidentiality Requirements

All information provided to the HACM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term "developmental disability" means a severe, chronic disability or an individual that:

  - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - Is manifested before the person attains age22;
  - Is likely to continue indefinitely;
  - Results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; *and*
  - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services individualized supports or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) Infants and Young Children

  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three (3) or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- 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 the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps. Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of ''Institution of Higher Education'' From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of ''Institution of Higher Education'' From 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term ''institution of higher education'' for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term ‘‘proprietary institution of higher education’’ means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term ‘‘proprietary institution of higher education’’ also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term ‘‘postsecondary vocational institution’’ means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term ‘‘postsecondary vocational institution’’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides the HACM with the information needed to determine the family's eligibility. HUD requires the housing agencies to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the HACM must select families from the waiting list in accordance with HUD requirements and HACM policies as stated in the administrative plan and the annual plan.

The HACM is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the HACM to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

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

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

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the HACM will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the HACM's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the HACM will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide the HACM in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the HACM has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the HACM's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the HACM's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with Limited English Proficiency (LEP).

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

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the HACM to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the HACM.

The housing authority will only accept on-line applications. Information entered permits the housing authority to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The on-line pre-application will contain at minimum the following information:

- Applicant name
- Date and time of application
- Racial or ethnic designation of the head of household
- Annual (gross) family income
- Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Pre-applications will not require an interview. The information submitted 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.

Applicants will be advised that they can be placed on more than one of the HACM's waiting lists that serve Property Management, Project-Based, and the tenant-based Section 8 Programs. If it is determined that there is a specific need for applicants for a specific program, the waiting list may be opened only for applicants that meet the criteria for the specific program.

The Housing Authority will inform applicants about available preferences when the applicants are sent the letter informing them that they have been placed on the waiting list.

Applicants will be notified of the requirement to submit evidence of citizenship or eligible immigration status.

Persons with disabilities who require reasonable accommodations in submitting an on-line application may call the Housing Authority for assistance in entering the data. The Housing Authority does use the TDD or the California relay system for individuals who are hearing impaired.

The application process involves two phases. In the first phase, information is collected to place the applicant on the waiting list. At that time the family would declare any preferences they may be eligible to claim and collect the information on the family's income.

Applicants with the same preferences and ranking points, their order of placement will be determined by date and time of application.

The second phase is the verification and final determination of eligibility, which would take place when the family is reaching the top of the waiting list. The HACM will verify the preferences, income, and eligibility.

Families may apply on line from the HACM web site. (www.hamonterey.org) Families may also request for assistance in entering the data.

Applications will be accepted even if the waiting list is closed, from families living in a public housing or government subsidized property due to displacement for government action.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The HACM must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the HACM application process. This could include people with disabilities, certain elderly individuals, as well as persons with Limited English Proficiency (LEP). The HACM must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the HACM must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the HACM's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

HACM is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with Limited English Proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the HACM's policies related to ensuring access to people with limited English proficiency (LEP). The on-line application is in English and in Spanish.

4-I.D. PLACEMENT ON THE WAITING LIST

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

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

Ineligible for Placement on the Waiting List

If the HACM can determine from the information provided that a family is ineligible such as:

- Family owing money to any Housing Authority;
- Has been evicted from public housing within the last five years; or
- Was evicted for non-compliance / or in violation of the Family Obligations from any Section 8 Program within the last five years;

When a family is determined to be ineligible, the HACM will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

The HACM will send written notification of the preliminary eligibility determination within 60 calendar days of receiving a completed pre-application.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their completed pre-application is received by the HACM.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

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

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

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

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

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

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

The HACM will maintain a single waiting list for the HCV program from which 75% of the applicants with local / ranking preferences will be issued vouchers and the remaining 25% will be selected by date and time only.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the HACM operates if:

- The other programs' waiting lists are open, and
- The family is qualified for the other programs.

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

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

The HACM will not merge the HCV waiting list with the waiting list for any other program that the HACM administers.

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

Closing the Waiting List

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

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

Reopening the Waiting List

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

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

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

- ***Salinas Californian;***
- ***Monterey Herald;***
- ***Local minority media,***
- ***Local governmental agencies;***
- ***And the HACM website.***

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

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

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

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

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

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

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

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

Notices will be mailed to organizations that serve the low-income families and persons with disabilities such as:

> County of Monterey Department of Social Services, Central Coast Center for Independent Living, Social Security Administration, Housing Choices Coalition, Interim, Inc., and other agencies serving the low-income population.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must immediately inform the HACM of changes in contact information, including current residence, mailing address, and phone number. The family must also report any change in family composition, which could affect the applicant's size of unit needed, or income, which could affect eligibility, and local preferences, which may change the applicant's priority for admission. The changes must be submitted in writing.

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

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

Purging the Waiting List

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

The waiting list will be updated on a regular basis going down the waiting list to ensure that all applicants and applicant information is current and timely.

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

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the HACM not later than fourteen (14) calendar days from the date of the HACM letter.

If the family fails to respond within fourteen (14) calendar days, the family will be removed from the waiting list and a letter will be sent informing them of the action taken.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have fourteen (14) calendar days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the Director of HAP or Eligibility Supervisor may reinstate the family if s/he determines the lack of response was due to HACM error, or to circumstances beyond the family's control.

Removal from the Waiting List

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

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

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

The order in which families receive assistance from the waiting list depends on the selection method chosen by the HACM and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

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

Targeted Funding [24 CFR 982.204(e)]

HUD may award a HACM funding for a specified category of families on the waiting list. The HACM must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

The HACM administers the following types of targeted funding:

Shelter Plus Care Program

Welfare to Work

Family Unification Program

Regular HCV Funding

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

4-III.C. SELECTION METHOD

HACM must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the HACM will use [24 CFR 982.202(d)].

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

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

Local Preferences:

Local preferences will be used to select 75% families from the waiting list and the remaining 25% will be selected by date and time.

From all eligible families: Selection shall be made without regard to race, color, creed, religion, sex, nation origin, age, familial status, or disability.

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

Local Preference with the same points will be ranked by the Ranking Point system and the date and time of application

- Frail elderly. (10 points)
- Families living in a rental rehabilitation project. (10 points)
- Formerly homeless families or homeless families actively enrolled in a case management, transitional housing, or other self-sufficiency program. (15 points)
- Families living in moderate rehabilitation and/or project-based program units whose health, welfare, or safety is threatened, or families who have provided drug related criminal activity testimony. (10 points)
- Families that need to move closer to medical and/or social services facilities. (10 points)
- Victims of disasters as verified by FEMA, the American Red Cross or other disaster assistance agency. (30 points)
- Families who reside in substandard housing, or who are involuntarily displaced or about to be involuntarily displaced as a result of code enforcement activities as determined by local Housing code Enforcement Program Officials. (50 points)
- Elderly families or families headed by an elderly person. (10 points)
- Families with household members who are mentally/physically/ developmentally disabled. (10 points)
- Families who have been diagnosed with a medical condition as severe/terminal, resulting in a medical crisis that may require continuous care services in the home. (30 points)
- Families who are considered to be living in-place. Those living in a unit that will be brought under contract where the landlord accepts the HCV Program. Verification required will be a copy of their lease in an appropriate size dwelling for the family listed

in the housing application and copies of their utility bills for a 3 (three) month period verifying their residency in the unit. (25 points) (Rev 02/23/04)

- Monterey County Residents (50 points)
- Veteran (10 points)
- Victims of Domestic Violence: The HACM will offer a local preference to families that have been subjected to or victimized by a member of the family or household within the past 6 months. (10 points)

  The HA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home. The following criteria are used to establish a family's eligibility for this preference:

  Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit within the family. The actual or threatened violence must have occurred within the past six months or be of a continuing nature.

  To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the HACM gives prior written approval. The HACM will approve the return of the abuser to the household under the following conditions:

  - The HACM verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior.
  - A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.
  - If the abuser returns to the family without approval of the HACM, the HACM will deny or terminate assistance for breach of the certification.

At the family's request, the HACM will take precautions to ensure than the new location of the family is concealed in cases of domestic abuse.

An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced and will not qualify for a local preference.

Treatment of Single Applicants

Single applicants who are elderly, disabled, or displaced families of no more than two person families will be given a selection priority over all "Other Single" applicants regardless of preference status.

"Other Singles" denotes a one-person household in which the individual member is not elderly, disabled, or displaced by government action. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for assistance before any one-person elderly, disabled or displaced family regardless of local preferences.

All families with children and families who include an elderly person or a person with a

disability (see 24 CFR 100.80) shall be given a selection priority over all other applicants.

The HACM will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.

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

HUD requires that Extremely Low-Income (ELI) families make up at least 75% of the families admitted to the HCV program during the HACM's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the HACM may skip non-ELI families on the waiting list in order to select an ELI family.

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

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

Order of Selection

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

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the HACM's local preferences. Within each targeted funding or preference ranking, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the HACM. Documentation will be maintained by the HACM as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the HACM does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

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

The HACM will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Other documents and information that should be brought to the interview

If a notification letter is returned to the HACM with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

4-III.E. THE APPLICATION INTERVIEW

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

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

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

The head of household, spouse/co-head, and all adult family members will be required to attend the interview.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

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

Any required documents or information that the family is unable to provide at the interview must be provided within 14 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

Interviews will be conducted in English or in Spanish by staff. For Limited English Proficient (LEP) applicants, the HACM will provide translation services in accordance with the HACM's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HACM in advance of the interview to schedule a new appointment. Applicants who fail to attend two scheduled interviews without HACM approval will be denied assistance based on the family's

failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

If the HACM determines that the family is ineligible, the HACM will send written notification of the ineligibility determination within 14 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

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

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

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

> Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.
>
> Part II: Subsidy Standards and Voucher Issuance. This part discusses the HACM's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

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

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

Briefings will be conducted in group meetings.

- Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the HACM may approve another adult family member to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to an appropriate HACM staff person.
- Briefings will be conducted in English and in Spanish. And for Limited English Proficient (LEP) applicants the HACM will provide translation services in accordance with the HACM's LEP plan (See Chapter 2).

Notification and Attendance

- Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.
- If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record. Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The HACM will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without HACM approval, will be denied assistance (see Chapter 3).
- Not attending a briefing because of incarceration is not an acceptable reason to hold an applicant's place on the waiting list and will result in removal from the waiting list.

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the HACM's jurisdiction;
- For families eligible under portability, an explanation of portability. The HACM cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

When HACM-owned units are available for lease, the HACM will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HACM-owned unit.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and the HACM's policies on any extensions or suspensions of the term. If the HACM allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the HACM determines the payment standard for a family, how the HACM determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the HACM determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the HACM jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the HACM policy on providing information about families to prospective owners.
- The HACM subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the HACM.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the HACM may terminate assistance for a participant family because of family action or failure to act.
- HACM informal hearing procedures including when the HACM is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, HAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

The HACM will provide the following additional materials in the briefing packet:

- When HACM-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HACM-owned unit.
- Information on how to fill out and file a housing discrimination complaint form.

The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the HACM of a change, notifying the HACM of the request or change within 14 calendar days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the HACM or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.

- The family must supply any information requested by the HACM or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- Damages beyond normal wear and tear will be considered to be damages that could be assessed against the security deposit.
- The family must allow the HACM to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
- The family must give a 30-day notice to the HACM and the owner before moving out of the unit or terminating the lease. The family will be allowed to move only once in a twelve month period. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HACM at the same time the owner is notified.
- The family must promptly give the HACM a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the HACM. The family must promptly notify the HACM in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACM approval to add any other family member as an occupant of the unit.

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

- The family must promptly notify the HACM in writing if any family member no longer lives in the unit.
- If the HACM has given approval, a foster child or a live-in aide may reside in the unit. The HACM has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACM consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).

- The family must not sublease the unit, assign the lease, or transfer the unit.

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

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

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HACM at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and HACM policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and HACM policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACM has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

The HACM will determine if a family has committed serious or repeated violations of the lease with the following:

- Written notice from owner to the HACM and family of the serious/repeated lease violation(s);
- Police reports;
- Arrest logs;

- Neighbor complaints or other third party information;
- Destruction of property or living or housekeeping habits that cause damage to the unit or premises;
- Criminal activity;
- Non-payment of rent;
- Failure to allow owner to make necessary repairs; or
- Disturbing the quiet and peaceful enjoyment of the premises by others, based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

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

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

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

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

- Unless a live in aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the HACM subsidy standards.

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

- Persons of the opposite sex (other than spouses, and children under age six (6)) will be allocated separate bedrooms.
- Live-in aides will be allocated a separate bedroom.
- Single person families will be allocated one bedroom.

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

Voucher Size	**Persons in Household** (Minimum – Maximum)
0 Bedroom	1 - 1
1 Bedroom	1-2
2 Bedrooms	2-6
3 Bedrooms	3-8
4 Bedrooms	4-10
5 Bedrooms	6-12

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

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

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

The HACM will notify the family of its determination within 14 calendar days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

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

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

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

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

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

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

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

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

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

Voucher Term [24 CFR 982.303]

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

The initial voucher term will be 60 calendar days but two additional 30-day extensions may be given for a total of 120 days.

As a reasonable accommodation for a person with disabilities, the voucher can be extended for an additional 30 days for a total of 150 days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the HACM grants an extension.

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

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

Public housing agencies must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose. The family must be notified in writing of the HACM's decision to approve or deny an extension. The HACM's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

The initial 60-day term has an option for two 30-day extensions. A voucher holder requesting an extension must submit to the Housing Authority a list of contacts with prospective lessors and the results of the contacts from the past 60-day period. The HACM will approve an additional 30-day extension beyond the full 120-day period (not to exceed 150-day period) only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by the HACM. Following is a list of extenuating circumstances that the HACM may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
    - Serious illness or death in the family
    - Other family emergency
    - Obstacles due to employment
    - Whether the family has already submitted requests for tenancy approval that were not approved by the HACM
    - Whether family size or other special requirements make finding a unit difficult

Any request for an additional extension must include the reason(s) an additional extension is necessary. The HACM may require the family to provide documentation to support the request.

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

The HACM will decide whether to approve or deny an extension request within 14 calendar days of the date the request is received, and will immediately provide the family written notice of its decision.

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

The HACM has adopted a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. "Suspension" means stopping the clock on a family's voucher term from the time a family submits the RTA until the time the HACM approves or denies the request [24 CFR 982.4]. The HACM's determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

When a Request for Tenancy Approval and proposed lease is received by the HACM, the term of the voucher will be suspended while the HACM processes the request.

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the HACM will require that the family reapply only if the waiting list is open for applications. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), the HACM will require the family to reapply for assistance only if the waiting list is open for applications. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by the HACM, the family will have the suspended time remaining to search for another unit and if not successful, be required to reapply for assistance.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

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

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

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Which are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)

- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

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

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

Temporarily Absent Family Members

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

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

Absent Students

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

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

Absences Due to Placement in Foster Care

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

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

Absent Head, Spouse, or Cohead

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

In the case where the household member is a spouse and the remaining spouse is requesting to remove as a household member, acceptable verification would be documentation of a legal separation, filing for dissolution of marriage, annulment, or other verification acceptable to the HACM as sufficient proof that the family member is no longer in the household.

Family Members Permanently Confined for Medical Reasons

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

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

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

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time. When more than one applicant or participant family is claiming the same dependents as family member, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HACM will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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

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

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 30 days. After the 30 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACM will extend the caretaker's status as an eligible visitor.

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

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

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

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

Families that report zero income are required to attend an office appointment to complete a written certification every 30 days and will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc. If the family's expenses exceed their known income, the HACM will make inquiry of the head of household as to the nature of the family's accessible resources.

Known Changes in Income

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

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

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

Using Enterprise Income Verification (EIV) to Project Income

HUD strongly recommends the use of Enterprise Income Verification (EIV). EIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [VG, p. 7].

HUD allows HAs to use EIV information in conjunction with family-provided documents to anticipate income [EIV].

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

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

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

If the EIV figure is less than the family's figure, the HACM will use the family's information.

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

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

- The HACM will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b) (3) (i).

- When the HACM cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the HACM will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- The HACM will analyze all EIV, third party, and family-provided data and attempt to resolve the income discrepancy.
- The HACM will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation.

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

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

Some Types of Military Pay.

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

Types of Earned Income <u>Not</u> Counted in Annual Income

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

This type of income (including gifts) is not included in annual income.

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

Children's Earnings.

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

Certain Earned Income of Full-Time Students.

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c) (11)]. To be considered "full-time," a

student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide.

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

Income Earned under Certain Federal Programs.

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

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

Resident Service Stipend.

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the HACM 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 HACM’s governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c) (8) (iv)].

State and Local Employment Training Programs.

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

The HACM defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-

job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

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

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

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

HUD-Funded Training Programs.

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

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

Earned Income Tax Credit.

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

Earned Income Disallowance.

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

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage

applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

The HACM defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion.

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

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

Second 12-Month Exclusion and Phase-In.

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation.

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the HACM will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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

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

Business Expenses

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

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

Business Expansion

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

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

Capital Indebtedness

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

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

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

Co-owned Businesses

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

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

Overview

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

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

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

General Policies

Income from Assets

The HACM generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the HACM to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected
- It is not feasible to anticipate a level of income over 12 months or
- The HACM believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the HACM can take into consideration past rental income along with the prospects of obtaining a new tenant.

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

Valuing Assets

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

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

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

Lump-Sum Receipts

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

Imputing Income from Assets [24 CFR 5.609(b) (3)]

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

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

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

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

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

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

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

Minimum Threshold

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

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

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

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

Separation or Divorce

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

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

Foreclosure or Bankruptcy

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

Family Declaration

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

Types of Assets

Checking and Savings Accounts

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

In determining the value of a checking account, the HACM will use the average monthly balance for the last three months.

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

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

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

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

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

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

Equity in Real Property or Other Capital Investments

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

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

- Equity accounts in HUD homeownership programs [24 CFR5.603 (b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]

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

A family may have real property as an asset in two ways:

(1) owning the property itself and

(2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the HACM determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

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

Revocable Trusts

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

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

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

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

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

IRA, Keogh, and Similar Retirement Savings Accounts

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

Personal Property

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

In determining the value of personal property held as an investment, the HACM will use the family's estimate of the value. Also other sources HACM deems appropriate.

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

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

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

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments <u>Included</u> in Annual Income

- Periodic payments from sources such as <u>social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions</u>. However,

periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b) (4) and (b) (3)].

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b) (4)].

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

Periodic PaymentsExcluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

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

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

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

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

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

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b) (4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

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

CFR 5.609(c) (3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

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

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

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

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the HACM must include in annual income "imputed" welfare income. The HACM must request that the welfare agency inform the HACM when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits:

- At the expiration of the lifetime or other time limit on the payment of welfare benefits,
- If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or
- Because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b) (2)].

Offsets

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

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

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

Alimony and Child Support

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

The HACM will count court-awarded amounts for alimony and child support unless the HACM verifies that:

- The payments are not being made and
- The family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Self-certification or other notarized documentation will be acceptable documentation.

Regular Contributions or Gifts

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

Examples of regular contributions include:

- Regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments),
- Cash or other liquid assets provided to any family member on a regular basis, and
- "In-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the HACM. For contributions that may vary from month to month (e.g., utility payments), the HACM will include a six-month average amount based upon past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b) (9)]

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

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b) (9) and FR 4/10/06]

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

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

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

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

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

Tuition will have the meaning given this term by the institution of higher education in which

- The student is enrolled.

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

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

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

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c) (17)]. HUD publishes an updated list of these exclusions periodically. It includes:
    a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
    b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
    c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
    d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
    e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
    f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
    g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
    h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
    i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

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

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

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

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

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

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

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

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

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

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
>
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

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

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

6-II.B. DEPENDENT DEDUCTION

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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

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

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

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

Definition of *Medical Expenses*

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

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

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

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

1. Are necessary to enable a family member 18 years or older to work;
2. Are not paid to a family member or reimbursed by an outside source;
3. In combination with any medical expenses, exceed three percent of annual income, and
4. Do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

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

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

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

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

Eligible Disability Expenses

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

HUD advises public housing agencies to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

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

Eligible Attendant Care

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

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

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Clarifying the Meaning of *Child* for This Deduction

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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

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

Seeking Work

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

Furthering Education

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

Being Gainfully Employed

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

Earned Income Limit on Child Care Expense Deduction

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

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

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

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

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

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

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

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the HACM will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is

13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

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

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

To establish the reasonableness of childcare costs, the HACM will use the schedule of childcare costs from the local welfare agency. Families may present, and the HACM will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND HA SUBSIDY

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

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

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

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

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.

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

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HACM's applicable payment standard:

1) The family will pay more than the TTP, and
2) At initial occupancy the HA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly-adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

HACM Subsidy [24 CFR 982.505(b)]

The HACM will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of:

1) The applicable payment standard for the family minus the family's TTP or
2) The gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]

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

The HACM will make utility reimbursements to the family.

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

Overview

If the HACM establishes a minimum rent greater than zero, the HACM must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the HACM determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

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

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

   For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following:

   - Implementation of assistance, if approved, or

- The decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2. The family would be evicted because it is unable to pay the minimum rent.
   - For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.
3. Family income has decreased because of changed family circumstances, including the loss of employment.
4. A death has occurred in the family.
   - In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).
5. The family has experienced other circumstances determined by the HACM.
   - The HACM has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

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

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

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

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

Example: Impact of Minimum Rent Exemption Assume the HACM has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$35 Minimum rent	$35 Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

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

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

No Financial Hardship

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

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

Temporary Hardship

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

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

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

Long-Term Hardship

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

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

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, (family's only source of income) the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

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

Overview

The HACM's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HACM's payment standards. The establishment and revision of the HACM's payment standard schedule are covered in Chapter 16.

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

The payment standard for a family is the lower of:

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

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

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

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

Changes in Payment Standards

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

Decreases

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

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

Step 2: The HACM will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the HACM at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The HACM will advise the family

that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

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

Increases

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

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

Changes in Family Unit Size

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

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the HACM is allowed to establish a higher payment standard for the family within the basic range.

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

Overview

A HACM-established utility allowance schedule is used in determining family share and HACM subsidy. The HACM must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using HACM subsidy standards. See Chapter 5 for information on the HACM's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

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

The family must request the higher allowance and provide the HACM with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the HACM must use the HACM current utility allowance schedule [24 CFR 982.517(d) (2)].

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

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

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

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

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

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

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

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

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

(4) (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness

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

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

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

(6) Welfare assistance payments.

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

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

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

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

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

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

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

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

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

[1] Text of 45 CFR 260.31 follows.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

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

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

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

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

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

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

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

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

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

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

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

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

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

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

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives

coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

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

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

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

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

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

(13) [Reserved]

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

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

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

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

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

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

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

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

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

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

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

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

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

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

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

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

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

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

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

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

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

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

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

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

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

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

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

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

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

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

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

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

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

Disallowance. Exclusion from annual income.

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

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

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

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

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

(c) *Disallowance of increase in annual income—*

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

(2) Second twelve-month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c) (2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48-month period starting from the initial exclusion under paragraph (c)(1) of this section.

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

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

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

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

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

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

Specified welfare benefit reduction.

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

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

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

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

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

(c) *Imputed welfare income.*

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

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

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the HACM's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the HACM by the welfare agency).

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

(5) The HACM may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of HACM decision.*

(1) Public housing. If a public housing tenant claims that the HACM has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the HACM denies the family's request to modify such amount, the HACM shall give the tenant written notice of such denial, with a brief explanation of the basis for the HACM determination of the amount of imputed welfare income. The HACM notice shall also state that if the tenant does not agree with the HACM determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the HACM determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the HACM determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the HACM denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the HACM determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the HACM determination, the family may request an informal hearing on the determination under the HACM hearing procedure.

(e) *HACM relation with welfare agency.*

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

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

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

determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

INTRODUCTION

The HACM must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The HACM must not pass on the cost of verification to the family.

The HACM will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACM policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the HACM

PART I. GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

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

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the HACM may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

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

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the housing agencies to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the HACM to use the most reliable form of verification that is available and to document the reasons when the HACM uses a lesser form of verification.

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

- Enterprise Income Verification (EIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

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

The HACM will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the HACM would accept the most recent report.

Printouts from web pages are considered original documents.

The HACM staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the HACM and must be signed in the presence of a HACM representative or HACM notary public.

File Documentation

The HACM must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the HACM has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.C. ENTERPRISE INCOME VERIFICATION (EIV)

Enterprise Income Verification (EIV) refers to the HACM's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV will be used to the extent that these systems are available to the HACM.

The HACM will inform all applicants and participants of its use of the following EIV resources during the admission and reexamination process:

- HUD's EIV system (when it is available to the HACM)
- The Work Number
- State of California EDD

The HACM must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and EIV-generated information. No adverse action can be taken against a family until the HACM has independently verified the EIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the HACM.

Definition of Substantial Difference

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available" [HUD website, April 2004], HUD recommends using $200 per month as the threshold for a substantial difference. The HACM will therefore use $200 per month as the threshold for a substantial difference.

See Chapter 6 for the HACM's policy on the use of EIV to project annual income and for the HACM's threshold for substantial difference.

When No Substantial Difference Exists

If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the EIV source and the family, the HACM must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires the HACM to use the EIV system when available. The following policies will apply when the HACM has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

Tenant Income Data (TID) Reports

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

The HACM will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits.

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

When the HACM determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

Exceeds Threshold Reports (ETRs)

The ETR is a tool for identifying families who may have concealed or under-reported income. Data in the ETR represents income for past reporting periods and may be between 6 months and 30 months old at the time ETRs are generated.

Families who have not concealed or under-reported income may appear on the ETR in some circumstances, such as loss of a job or addition of new family members.

The HACM will generate and review ETRs on a monthly basis. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.

In reviewing ETRs, the HACM will begin with the largest discrepancies.

When the HACM determines that a participant appearing on the ETR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from ETR processing until a subsequent interim or annual reexamination has been completed.

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

When the HACM determines through ETR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

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

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

The HACM will identify participants whose identity verification has failed as part of the annual reexamination process.

The HACM will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the HACM determines that discrepancies exist due to HACM errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the HACM to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

The HACM will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The HACM may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The HACM will send a written request for verification to each required source within 7 calendar days of securing a family's authorization for the release of the information and give the source 14 calendar days to respond in writing. If a response has not been received by the 15th calendar day, the HACM will request third-party oral verification.

The HACM will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, HACM staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

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

If a third party agrees to confirm in writing the information provided orally, the HACM will wait no more than 7 calendar days for the information to be provided. If the information is not provided by the 8th calendar day, the HACM will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the HACM will use the information from documents on a provisional basis. If the HACM later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the HACM will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the HACM's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

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

Certain Assets and Expenses

The HACM will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The HACM will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

The HACM will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $1000 annually ***and*** the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The HACM will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the HACM will rely upon review of documents when the HACM determines that a third party's privacy rules prohibit the source from disclosing information.

The HACM also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense, which causes a burden on the families *when* the family has original documents that provide the necessary information.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If the HACM has determined that third-party verification is not available or not required, the HACM will use documents provided by the family as verification.

The HACM may also review documents when necessary to help clarify information provided by third parties. In such cases the HACM will document in the file how the HACM arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

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

The HACM may require a family to certify that a family member does <u>not</u> receive a particular type of income or benefit.

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

PART II. VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

The HACM will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HACM's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HACM and be signed in the presence of a HACM representative or a notary public.

Legal identity will be verified on an as needed basis.

When a member of the household becomes an adult, i.e., turn 18 years of age; the HACM will require them to furnish a photo ID as verification of legal identity at the family's next annual re-exam.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

The HACM will also accept the following documents as evidence if the SSN is provided on the document:

- Driver's license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

- Payroll stubs
- Benefit award letters from government agencies;
- Retirement benefit letters;
- Life insurance policies; or
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, the HACM will require a self-certification stating that documentation of the SSN cannot be provided at this time. The HACM will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above.

The HACM will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the HACM will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACM will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification. If the HACM has reasonable doubts about a marital relationship, the HACM will require the family to document the marriage.

- A marriage certificate generally is required to verify that a couple is married.
- In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife),
- Using the same last name, filing joint income tax returns).

Separation or Divorce

- A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
- A copy of a court-ordered maintenance or other court record is required to document a separation.
- If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

The HACM requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co head, or
- The family claims a childcare deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The HACM must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HACM is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HACM may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACM receives a verification document that provides such information, the HACM will not place this information in the tenant file. Under no circumstances will the HACM request a participant's

medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above-cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive disability benefits from the SSA, the HACM will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available, or HUD's Tenant Assessment Subsystem (TASS). If documentation from HUD's EIV System or TASS is not available, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the HACM will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the HACM.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter.

This verifications chapter discusses HUD and HACM verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The HACM may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HACM receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

HACM Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HACM must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The HACM will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The HACM must verify any preferences claimed by an applicant prior to housing.

- FRAIL ELDERLY - *Letter from doctor or social services stating assistance needed with daily living activities.*
- FAMILIES WITH HOUSEHOLD MEMBERS WHO ARE MENTALLY/PHYSICALLY/ DEVELOPMENTALLY DISABLED - *Receiving Social Security/SSI benefits or letter from doctor/social services verifying mental/physical/developmental* disability.

- FAMILIES WHO HAVE BEEN DIAGNOSED WITH A MEDICAL CONDITION AS SEVERE/TERMINAL, RESULTING IN A MEDICAL CRISIS WHICH MAY REQUIRE CONTINUOUS CARE SERVICES IN THE HOME - **Letter** *from doctor stating medical condition.*
- FAMILIES LIVING IN RENTAL REHABILITATION PROJECT - *Letter from City verifying unit is being rehabilitated.*
- FORMERLY HOMELESS FAMILIES OR HOMELESS FAMILIES ACTIVELY ENROLLED IN A CASE MANAGEMENT, TRANSITIONAL HOUSING OR OTHER SELF-SUFFICIENCY PROGRAM - *Letter from agency assisting with case management, transitional housing or self-sufficiency program.*
- FAMILIES LIVING IN MODERATE REHABILITATION AND/OR PROJECT-BASED PROGRAM UNITS WHOSE HEALTH, WELFARE, OR SAFETY IS THREATENED, OR FAMILIES WHO HAVE PROVIDED DRUG RELATED CRIMINAL ACTIVITY TESTIMONY - *Letter from law enforcement officials.*
- FAMILIES THAT NEED TO MOVE CLOSER TO MEDICAL AND/OR SOCIAL SERVICES FACILITIES - L*etter from doctor or social services.*
- VICTIMS OF DISASTERS - *Verification provided by FEMA, Red Cross, or other disaster assistance agency.*
- FAMILIES WHO RESIDE IN SUBSTANDARD HOUSING OR WHO ARE INVOLUNTARILY DISPLACED OR ABOUT TO BE INVOLUNTARILY DISPLACED AS A RESULT OF CODE ENFORCEMENT ACTIVITIES AS DETERMINED BY LOCAL HOUSING CODE ENFORCEMENT PROGRAM OFFICIALS - *Letter from governmental official verifying condition of unit.*
- ELDERLY FAMILIES OR FAMILIES HEADED BY AN ELDERLY PERSON - *Information on application.*
- VICTIMS OF DOMESTIC VIOLENCE **–** *The Housing Authority will offer a local preference to families that have been subjected to or victimized by a member of the family or household within the past 6 (six) months. The HACM will require evidence that the family has been displaced as a result off fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.*
- FAMILIES WHO ARE CONSIDERED TO BE LIVING IN-PLACE. THOSE LIVING IN A UNIT WHERE THE LANDLORD WILL ACCEPT THE S8 HCV PROGRAM *–Must have resided in unit for the past three months and must remain in unit for a period of no less than one year after assistance starts. Must meet additional program requirements in order to qualify for the In-Place preference.*
- The HACM will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. Those families will be the first ones to be issued a voucher at the next scheduled briefing. The HACM will verify this preference using the HACM's termination records.
- VETERAN PREFERENCE - Client providing a copy of DD 214 certifying an honorable discharge.
- RESIDENCY PREFERENCE – Copy of lease, rent receipts, copy of utility bills listing their

name and address and signed landlord verification.

PART III. VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HACM policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

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

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

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

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

The HACM will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HACM may request documents that support submitted financial statements such as manifests, appointment books, cashbooks, or bank statements.

If a family member has been self-employed less than three (3) months, the HACM will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months.

If the family member has been self-employed for three (3) to twelve (12) months the HACM will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the HACM will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter

they will be required to provide it to the HACM.

To verify the SS/SSI benefits of participants, the HACM will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the HACM will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the HACM will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to the HACM.

7-III.D. ALIMONY OR CHILD SUPPORT

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

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

- If payments are made through a state or local entity, the HACM will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

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

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

  Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HACM needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The HACM will verify the value of assets disposed of only if:

- The HACM does not already have a reasonable estimation of its value from previously

collected information, or

- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HACM verified this amount. Now the person reports that she has given this $10,000 to her son. The HACM has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary. Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HACM will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant; and
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HACM will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the HACM will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, the HACM will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, the HACM will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HACM must obtain verification for income exclusions only if, without verification, the HACM would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HACM will confirm that HACM records verify the child's age but will not send a verification request to the restaurant. However,

if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

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

7-III.I. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. In addition, a zero income verification and questionnaire will need to be filled out by participant every 30 days.

PART IV. VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HACM verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The HACM will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The HACM will verify that the head, spouse, or co head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

The HACM will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible
- If third party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the HACM will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACM will also accept evidence of monthly

payments or total payments that will be due for medical expenses during the upcoming 12 months.

- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the HACM must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The HACM will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the HACM's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HACM will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

The HACM will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible.
- If third party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the HACM must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HACM will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HACM must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The HACM will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

An attendant care provider will be asked to certify that, to the best of the provider's knowledge,

the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the HACM must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The HACM will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

The childcare provider will be asked to certify that, to the best of the provider's knowledge, the childcare expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The HACM must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be gathered

The HACM will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HACM will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HACM will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the HACM any reports provided to the other agency.

In the event third-party verification is not available, the HACM will provide the family with a form on which the family member must record job search efforts. The HACM will review this

information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HACM will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The HACM will seek verification from the employer of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

The HACM will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HACM will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HACM will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

The actual costs the family incurs will be compared with the HACM's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HACM will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14)

Upfront (UIV)	**Highest (Highly Recommended, highest level of third party verification)**
Written 3rd Party	**High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)**
Oral 3rd Party	**Medium (Mandatory if written third party verification is not available)**
Document Review	**Medium-Low (Use on provisional basis)**
Tenant Declaration	**Low (Use as a last resort)**

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. Agreements with private vendor services such as The Work Number or CheckPoint to obtain wage and salary information. Use of HUD systems when available.	The PHA mails forms or sends a verification form directly to the independent sources to obtain wage information. The PHA may have the tenant sign a Request for Tax and Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.	In the event the independent source does not respond to the PHA's written request for information, the PHA may attempt the independent source by phone or mail or in person visit to obtain the requested information.	When neither form of third party verification can be obtained the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months, if any, stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, position or title, employer name, address and telephone number, name and position of the person completing the employment verification form.
Effective Date of Employment: The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information	The PHA may call the sources to obtain income information	The PHA may accept any documentation (e.g. tax returns, receipts and letters from customers) provided by the tenant to verify self-employment income. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always require a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may call SSA with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may accept an original SSA Notice from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person	The PHA mails or faxes, or otherwise sends a verification form directly to the local Social Services Agency to obtain in welfare benefit information	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or information from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of an agreement with the Local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes or e-mails a verification form directly to the Local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the Local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the Local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person. Use of HUD systems, when available.	The PHA mails, faxes or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the Local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pension	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically by mail or fax or in person	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and/or asset income information	The PHA may call the source to obtain asset and asset income information	The PHA may review original documents provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and/or asset income. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Comments	Whenever UIVT indicates available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a REAC review.	Note: The Independent source completes the form and returns it to the PHA directly or the PHA Agency Employee should not hand carry documents to or from the independent source	The PHA should document in the tenant file the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort when all other verification methods are not positive or have been unsuccessful. Notarized statement should include a perjury penalty statement.

Note: The PHA must not pass verification costs along to the participant.

Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)

EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]	
• **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the HACM. • Except for persons 62 or older, all noncitizens must sign a verification consent form • Additional documents are required based upon the person's status.	
Elderly Noncitizens • A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.	
All other Noncitizens • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*	

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the HACM to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and HACM-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires Housing Authorities to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and HACM requirements related to housing quality and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections the HACM will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the HACM will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8.I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas sanitary facilities

- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality

- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the Housing Authorities to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the HACM must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the HACM for review.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

The HACM may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the HACM additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The HACM must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

As permitted by HUD, the HACM has adopted the following specific requirements that elaborate on HUD standards.

Walls

- In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

- Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a weather-tight seal.
- Window screens must be in good condition (applies only if screens are present).

Doors

- All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
- All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
- All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
- All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.
- All sinks must have functioning stoppers.

Security

- If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the HACM to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of HACM notification.

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

If an owner fails to correct life-threatening conditions as required by the HACM, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life-threatening condition as required by the HACM, the HACM may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the HACM determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-I. D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items, which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a housing authority is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the housing authority must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the HACM, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the HACM will take action in accordance with Section 8-II.G.

HACM reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the HACM determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HACM must issue the family a new voucher, and the family and HACM must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACM must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The HACM conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The HACM conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections*. HUD requires the HACM to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a supervisor or other qualified individual to ensure that all inspectors are enforcing HQS correctly and uniformly reinspect a sample of units.

Inspection of HACM-owned Units [24 CFR 982.352(b)]

The HACM must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HACM-owned unit. A HACM-owned unit is defined as a unit that is owned by the HACM that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HACM). The independent agency must communicate the results of each inspection to the family and the HACM. The independent agency must be approved by HUD, and may be the unit of general local government for the HACM jurisdiction (unless the HACM is itself the unit of general local government or an agency of such government).

Inspection Costs

The HACM may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of HACM-owned units, the HACM may compensate the independent agency from ongoing administrative fee for inspections performed. The HACM and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the HACM to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 9:00 a.m. and 4:00 p.m. Generally inspections will be conducted on business days only. In the case of a life-threatening emergency, the HACM will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the HACM to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the HACM will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires Housing Authorities with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For Housing Agencies with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b) (2)].

The HACM will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the HACM for good cause. The HACM will reinspect the unit within 5 business days of the date the owner notifies the HACM that the required corrections have been made.

If the time period for correcting the deficiencies (or any HACM-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the HACM will notify the owner and the family that the unit has been rejected and that the family must search for another unit.

The HACM may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

If utility service is not available for testing at the time of the initial inspection, the HACM will allow the utilities to be placed in service after the unit has met all other HQS requirements. The HACM will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the HACM.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, the HACM will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the HACM. The HACM will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8.II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

If an adult family member cannot be present on the scheduled date, the family should request that the HACM reschedule the inspection. The HACM and family will agree on a new inspection date that generally should take place within 7 calendar days of the originally scheduled date. The HACM may schedule an inspection more than 7 calendar days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HACM will automatically schedule a second inspection. If the family misses two scheduled inspections without HACM approval, the HACM will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB p. 10-30]

The HACM will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

During a special inspection, the HACM generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the HACM may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b), HCV GB p. 10-32]

HUD requires a HACM supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include:

- Each type of inspection (initial, annual, and special);

- Inspections completed by each inspector; and
- Units from a cross-section of neighborhoods.

8.II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the HACM will determine\

- Whether or not the failure is a life threatening condition; and
- Whether the family or owner is responsible.

When life-threatening conditions are identified, the HACM will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the HACM's notice.

When failures that are not life threatening are identified, the HACM will send the owner and the family a written notification of the inspection results within 7 calendar days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 calendar days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any HACM-approved extension), the owner's HAP will be abated in accordance with HACM policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any HACM-approved extension, if applicable) the family's assistance will be terminated in accordance with HACM policy (see Chapter 12).

Extensions

For conditions that are life threatening, the HACM cannot grant an extension to the 24-hour corrective action period. For conditions that are not life threatening, the HACM may grant an exception to the required time frames for correcting the violation, if the HACM determines that an extension is appropriate [24 CFR 982.404].

Extensions will be granted in cases where the HACM has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by case basis, but will not exceed 60 calendar days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make

repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Reinspections

The HACM will conduct a reinspection immediately following the end of the corrective period, or any HACM approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the HACM will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HACM policies. If the HACM is unable to gain entry to the unit in order to conduct the scheduled reinspection, the HACM will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8.II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS,the HACM must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the HACM, HUD requires the HACM to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

The HACM will make all HAP abatements effective the first of the month following the expiration of the HACM specified correction period (including any extension).

The HACM will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The HACM must decide how long any abatement period will continue before the HAP contract will be terminated. The HACM should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The HACM will issue a voucher to permit the family to move to another unit as described in Chapter 10.

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the HACM before the termination date of the HAP contract, the HACM may rescind the termination notice if:

- The family still resides in the unit and wishes to remain in the unit; and
- The unit passes inspection.

Reasonable notice of HAP contract termination by the HACM is 30 calendar days.

8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the HACM (and any extensions), the HACM will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the HACM has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

HACM-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a HACM owned unit, the HACM must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A HACM-owned unit is defined as a unit that is owned by the HACM that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HACM). The independent agency must communicate the results of the rent reasonableness determination to the family and the HACM. The independent agency must be approved by HUD, and may be the unit of general local government for the HACM jurisdiction (unless the HACM is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The HACM must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The HACM (or independent agency in the case of HACM-owned units) will assist the family with the negotiations upon request. At initial occupancy the HACM must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the HACM may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the HACM will consider unit size and length of tenancy in the other units.

The HACM will determine whether the requested increase is reasonable within 14 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustmentswill be effective the first of the month following 60 calendar days after the HACM's receipt of the owner's request or on the date specified by the owner, whichever is later.

HACM- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the HACM to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 calendar days before the contract anniversary date. HUD also may direct the HACM to make a determination at any other time. The HACM may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, the HACM will make a determination of rent reasonableness at any time after the initial occupancy period if:

- The HACM determines that the initial rent reasonableness determination was in error; or
- The HACM determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires housing agencies to take into consideration the factors listed below when determining rent comparability. The HACM may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit:

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest

Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the HACM payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the HACM information regarding rents charged for other units on the premises.

8-III.D. HACM RENT REASONABLENESS METHODOLOGY

How Market Data is collected

The HACM will collect and maintain data on market rents in the HACM's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The HACM will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the HACM may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The HACM will notify the owner of the rent the HACM can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The HACM will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 7 calendar days of the HACM's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one open able window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children less than six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed;
- Provide all prospective families with "Protect Your Family from Lead in Your Home";
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the HACM;
- Notify tenants each time such an activity is performed;
- Conduct all work in accordance with HUD safe practices; and
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the HACM). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

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

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

- *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the HACM to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the HACM must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the HACM and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the HACM, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The HACM has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before HACM approval of the tenancy, the HACM will inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The HACM must also inform the owner or manager of their responsibility to comply with VAWA. [Pub.L. 109-162]

- The HACM will provide the owner with the family's current and prior address (as shown in the HACM records) and the name and address (if known to the HACM) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The HACM is permitted, but not required, to offer the owner other information in the HACM's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The HACM will provide the following information based on documentation in its possession:

- Eviction history
- Damage to rental units
- Drug trafficking by family members

The information will be provided for the last three years and will be provided orally.

The HACM's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The HACM will not screen applicants for family behavior or suitability for tenancy.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the HACM to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the HACM:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the HACM to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACM has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either:

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

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

Both the family and the owner must sign the RTA.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and the HACM will not process, more than one (1) RTA at a time.

When the family submits the RTA the HACM will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the HACM will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The HACM will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the HACM will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the HACM will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The HACM will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the HACM will attempt to communicate with the owner and family by phone, fax, or email. The HACM will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

The HACM does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HACM may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the HACM's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The HACM may <u>not</u> assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

HACM-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the HACM issuing the voucher may also be leased in the voucher program. In order for a HACM-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the HACM must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a HACM-owned unit without any pressure or steering by the HACM.

The HACM does have eligible HACM-owned units available for leasing under the voucher program.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the HACM to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room

occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the HACM has chosen to allow.

The regulations do require the HACM to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of

bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the HACM is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the HACM. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

The HACM does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)

- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the HACM to approve a shorter initial lease term if certain conditions are met.

The HACM will approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The HACM may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The HACM may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the HACM chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

The HACM will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the HACM's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

The HACM permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that arenot customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

HACM Review of Lease

The HACM will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, the HACM will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The HACM will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, the HACM will attempt to communicate with the owner and family by phone, fax, or email. The HACM will use mail when the parties can't be reached by phone, fax, or email.

The HACM is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the HACM determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

The HACM will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the HACM must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the HACM must ensure that all required actions and determinations; discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the HACM and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the HACM, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

The HACM will complete its determination within 14 calendar days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the HACM, the HACM will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The HACM will not accept corrections over the phone.

If the HACM determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The HACM will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the HACM will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the HACM and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the HACM agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the HACM has given approval for the family of the assisted tenancy, the owner and the HACM execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The HACM is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The HACM must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The HACM may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the HACM will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the HACM may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HACM. The HACM will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the HACM will execute the HAP contract. The HACM will not execute the HAP contract until the owner has submitted IRS form W-9. The HACM will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

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

Generally, HACM approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the HACM has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the HACM of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The HACM will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is <u>not</u> found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, the HACM will determine whether the requested increase is reasonable within 14 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the HACM of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and HACM policies governing moves within or outside the HACM's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the HACM's HCV program, whether the family moves to another unit within the HACM's jurisdiction or to a unit outside the HACM's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the HACM's jurisdiction. This part also covers the special responsibilities that the HACM has under portability regulations and procedures.

PART I. MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the HACM a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the ection 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit"
  [Pub.L. 109-162]
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the HACM a copy of the termination agreement.
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the

family [24 CFR 982.314(b)(2)]. The family must give the HACM a copy of any owner eviction notice [24 CFR 982.551(g)].

- The HACM has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The HACM determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the HACM must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HACM must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACM gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a HACM may deny a family permission to move and two ways in which a HACM may restrict moves by a family.

Denial of Moves

HUD regulations permit the HACM to deny a family permission to move under the following conditions:

Insufficient Funding

The HACM may deny a family permission to move if the HACM does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

The HACM will deny a family permission to move on grounds that the HACM does not have sufficient funding for continued assistance if:

- The move is initiated by the family, not the owner or the HACM; and
- The HACM can demonstrate that the move will, in fact, result in higher subsidy costs.
- The HACM can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the HACM's jurisdiction as well as to moves outside under portability.

Grounds for Denial or Termination of Assistance

The HACM has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking,- and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub.L. 109-162]

If the HACM has grounds for denying or terminating a family's assistance, the HACM will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the HACM to prohibit any elective move by a participant family during the family's initial lease term. They also permit the HACM to prohibit more than one elective move by a participant family during any 12-month period.

- The HACM will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HACM's jurisdiction or outside it under portability. If the lease executed is on a month to month, the family will not be allowed to move for a 12-month period.
- Families will not be permitted to move outside the HACM's jurisdiction under portability procedures during the initial year of assisted occupancy if they were living outside of Monterey County when they submitted their housing application. These applicants will be required to reside in Monterey County for the first year of their participation in the HCV Program.
- The HACM will also deny a family permission to make more than one elective move during any 12-month period at their recertification date. This policy applies to all assisted families residing in the HACM's jurisdiction.
- The HACM will deny the family permission to move if the family has violated a family obligation or the family owes money to the HACM or any other HA.

The HACM may consider exceptions to these policies for the following reason:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, when units get sold, unit does not meet the HQS, domestic violence, witness protection programs).

In addition, the HACM may allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities. (See Chapter 2)

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the HACM and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the HACM's jurisdiction under portability, the notice to the HACM must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

Upon receipt of a family's notification that it wishes to move, the HACM will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-

I.A and 10-I.B. An appointment will be scheduled with the family to update necessary paperwork.

Reexamination of Family Income and Composition

For families approved to move to a new unit within the HACM's jurisdiction, the HACM will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the HACM's jurisdiction under portability, the HACM will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

For families approved to move to a new unit within the HACM's jurisdiction, the HACM will issue a new voucher. No briefing is required for these families. The HACM will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HACM approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HACM's jurisdiction under portability, the HACM will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the HACM may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a HACM administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one HA and uses it to lease a unit in the jurisdiction of another HA is known as portability. The first HA is called the **initial HA.** The second is called the **receiving HA.**

The receiving HA has the option of administering the family's voucher for the initial HA or absorbing the family into its own program. Under the first option, the receiving HA bills the initial HA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving HA pays for the family's assistance out of its own program funds, and the initial HA has no further relationship with the family.

The same HA commonly acts as the initial HA for some families and as the receiving HA for others. Each role involves different responsibilities. The HA will follow the rules and policies in section 10-II.B when it is acting as the initial HA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving HA for a family.

10-II.B. INITIAL HA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one HA administering a voucher program [24 CFR 982.353(b)]. If there is more than one HA in the area, the initial HA may choose the receiving HA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the HA's jurisdiction under portability. The initial HA, in accordance with HUD regulations and HA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the HACM's jurisdiction under portability. However, HUD gives the HACM discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family:

- Insufficient funding, and
- Grounds for denial or termination of assistance.

In determining whether or not to deny an applicant family permission to move under portability because the HACM lacks sufficient funding or has grounds for denying assistance to the family, the initial HA will follow the policies established in section 10-I.B of this chapter.

In addition, the HACM may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

If neither the head of household nor the spouse/co head of an applicant family had a domicile (legal residence) in the HACM's jurisdiction at the time the family's application for assistance was submitted, the family must live in the HACM's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The HACM may consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving HA. [24 CFR 982.353(c)(3)].

Participant Families

The Initial HA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).] VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

The HACM will determine whether a participant family may move out of the HACM's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The HACM will notify the family of its determination in accordance with the approval policy set forth in section 10-II.B of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial HA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the HACM must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

For a participant family approved to move out of its jurisdiction under portability, the HACM generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HACM will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the HACM to provide information on portability to all applicant families that qualify to lease a unit outside the HACM's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

No formal briefing will be required for a participant family wishing to move outside the HACM's jurisdiction under portability. However, the HACM will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The HACM will provide the name, address, and phone of the contact for the HA in the jurisdiction to which they wish to move. The HACM will advise the family that they will be under the RHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the HACM will follow the

regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

For families approved to move under portability, the HACM will issue a new voucher within 14 calendar days of the HACM's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

The HACM will approve no extensions to a voucher issued to an applicant or participant family porting out of the HACM's jurisdiction except under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving HA;
- The family decides to return to the initial HA's jurisdiction and search for a unit there; or
- The family decides to search for a unit in a third HA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial HA's voucher program, a family that moves to another HA's jurisdiction under portability must be under HAP contract in the receiving HA's jurisdiction within 60 days following the expiration date of the initial HA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving HA

After approving a family's request to move under portability, the initial HA must promptly notify the receiving HA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial HA must contact the receiving HA directly on the family's behalf [Notice PIH 2004-12]. The initial HA must also advise the family how to contact and request assistance from the receiving HA [24 CFR 982.355(c)(2)].

Because the portability process is time-sensitive, the HACM will notify the receiving HA by phone, fax, or e-mail to expect the family. The initial HA will also ask the receiving HA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The HACM will pass this information along to the family. The HACM will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving HA

The initial HA is required to send the receiving HA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]

- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

In addition to these documents, the HACM will provide the following information, if available, to the receiving HA:

- Social security numbers (SSNs)
- Documentation of SSNs for all family members age 6 and over
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program
- The HACM will notify the family in writing regarding any information provided to the receiving HA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2004-12]

When the initial HA sends form HUD-52665 to the receiving HA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving HA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial HA. If the initial HA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving HA to determine the status of the family. If the receiving HA reports that the family is not yet under HAP contract, the initial HA may refuse to accept a late billing submission. If the receiving HA reports that the family is under HAP contract and the receiving HA cannot absorb the family, the initial HA must accept a late billing submission; however, it may report to HUD the receiving HA's failure to comply with the deadline.

If the HACM has not received an initial billing notice from the receiving HA by the deadline specified on form HUD-52665, it will contact the receiving HA by phone, fax, or e-mail on the next business day. If the HA reports that the family is not yet under HAP contract, the HACM will inform the receiving HA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HACM will send the receiving HA a written confirmation of its decision by mail.

The HACM will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving HA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving HA is administering the family's voucher, the initial HA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial HA receives Part II of form HUD-52665 from the receiving HA. Subsequent

payments must be **received** by the receiving HA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving HA is able and willing to accept.

The initial HA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The HACM must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving HAs as well as for families that remain within its jurisdiction.

Annual Updates of Form HUD-50058

If the initial HA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving HA. If the initial HA fails to receive an updated 50058 by the family's annual reexamination date, the initial HA should contact the receiving HA to verify the status of the family.

Subsequent Family Moves

Within the Receiving HA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The initial HA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

If the HACM determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving HAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the HACM's jurisdiction.

Outside the Receiving HA's Jurisdiction [Notice PIH 2004-12]

If the initial HA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving HA's jurisdiction, the initial HA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving HA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving HA. Any extensions of the initial HA voucher necessary to allow the family additional search-time to return to the initial HA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial HA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial HA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving HA, the initial HA may act on those grounds at any time. (For HACM policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving HA's jurisdiction under portability, the receiving HA must provide assistance for the family [24 CFR 982.355(10)].

The receiving HA's procedures and preferences for selection among eligible applicants do not apply, and the receiving HA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the

receiving HA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving HA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the HACM's jurisdiction under portability, the family is responsible for promptly contacting the HACM and complying with the HACM's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial HA has expired, the receiving HA does not process the family's paperwork but instead refers the family back to the initial HA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving HA, the receiving HA must promptly inform the initial HA whether the receiving HA will bill the initial HA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the HACM initially bills the initial HA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

Within 14 calendar days after a portable family requests assistance, the receiving HA will notify the initial HA whether it intends to bill the receiving HA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving HA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving HA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

The HACM will not require the family to attend a briefing. The HACM will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the HACM's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving HA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving HA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving HA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial HA's voucher program [24 CFR 982.355(c)(1)].

For any family moving into its jurisdiction under portability, the HACM will conduct a new reexamination of family income and composition. However, the HACM will not delay issuing the family a voucher for this reason. Nor will the HACM delay approving a unit for the family

until the reexamination process is complete unless the family is an applicant and the HACM cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the HACM will rely upon any verifications provided by the initial HA to the extent that they:

- Accurately reflect the family's current circumstances; and
- Were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving HA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving HA during the term of the receiving HA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving HA to issue the voucher within two weeks after receiving the family's paperwork from the initial HA if the information is in order, the family has contacted the receiving HA, and the family complies with the receiving HA's procedures [Notice PIH 2004-12].

When a family ports into its jurisdiction, the HACM will issue the family a voucher based on the paperwork provided by the initial HA unless the family's paperwork from the initial HA is incomplete, the family's voucher from the initial HA has expired or the family does not comply with the HACM's procedures. The HACM will update the family's information when verification has been completed.

Voucher Term

The term of the receiving HA's voucher may not expire before the term of the initial HA's voucher [24 CFR 982.355(c)(6)].

The receiving HA's voucher will expire on the same date as the initial HA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The receiving HA may provide additional search time to the family beyond the expiration date of the initial HA's voucher; however, if it does so, it must inform the initial HA of the extension. It must also bear in mind the billing deadline provided by the initial HA. Unless willing and able to absorb the family, the receiving HA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial HA.

The HACM generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACM plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The HACM will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial HA

The receiving HA must promptly notify the initial HA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving HA's voucher [24 CFR 982.355(c)(8)]. The receiving HA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving HA but instead wishes to return to the initial HA's jurisdiction or to search in another jurisdiction, the receiving HA must refer the family back to the initial HA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial HA. Any extension of search time provided by the receiving HA's voucher is only valid for the family's search in the receiving HA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving HA intends to administer the family's voucher, the receiving HA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving HA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial HA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving HA must be attached to the initial billing notice. The receiving HA may send these documents by mail, fax, or e-mail.

The HACM will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving HA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial HACM is willing to accept the late submission or (b) HUD requires the initial HACM to honor the late submission (e.g., because the receiving HA is over leased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The receiving HA must send the initial HA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving HA is billing the initial HA on behalf of the family, regardless of whether there is a change in the billing amount.

The HACM will send a copy of the updated HUD-50058 by regular mail at the same time the HACM and owner are notified of the reexamination results.

Change in Billing Amount. The receiving HA is required to notify the initial HA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments

- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial HA with advance notice of the change. Under no circumstances should the notification be later than 14 calendar days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial HA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving HA must promptly notify the initial HA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving HA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving HA. If the initial HA fails to correct the problem by the second month following the notification, the receiving HA may request by memorandum to the director of the OPH with jurisdiction over the receiving HA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the HAs on the matter must be attached. The receiving HA must send a copy of the memorandum to the initial HA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial HA is still responsible for any outstanding payments due to the receiving HA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving HA has received billing payments for billing arrangements no longer in effect, the receiving HA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial HA.

In the event that HUD determines billing payments have continued for at least three months because the receiving HA failed to notify the initial HA that the billing arrangement was terminated, the receiving HA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial HA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving HA of the date and the amount of reimbursement to the initial HA.

At HUD's discretion, the receiving HA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving HA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the HACM should provide adequate notice of the effective date to the initial HA to avoid having to return a payment. In no event should the receiving HA fail to

notify the initial HA later than 14 calendar days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

If the HACM elects to deny or terminate assistance for a portable family, the HACM will notify the initial HA within 14 calendar days after the informal review or hearing if the denial or termination is upheld. The HACM will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving HA will furnish the initial HA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving HA may absorb an incoming portable family into its own program when the HA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the HACM has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving HA absorbs a family from the point of admission, the admission will be counted against the income-targeting obligation of the receiving HA [24 CFR 982.201(b)(2)(vii)].

If the receiving HA absorbs a family after providing assistance for the family under a billing arrangement with the initial HA, HUD encourages the receiving HA to provide adequate advance notice to the initial HA to avoid having to return an overpayment. The receiving HA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

If the HACM decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACM will notify the initial HA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HACM decides to absorb a family after that, it will provide the initial HA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving HA's voucher program [24 CFR 982.355(d)], and the receiving HA becomes the initial HA in any subsequent moves by the family under portability.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The HACM is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and HACM policies concerning reexaminations are presented in three parts:

> Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
>
> Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
>
> Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The HACM must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The HACM must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

The HACM will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the HACM will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the HACM will perform a new annual reexamination and that will be their new anniversary date.

The HACM also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The HACM is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HACM.

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACM to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be provided at the interview.

If the family is unable to keep a scheduled interview, the family should contact the HACM in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the HACM will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACM approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the HACM must execute a certification attesting to the role and assistance of any such third party.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the HACM regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Families will be asked to provide all required information (as described in the reexamination notice) at the reexamination appointment. The required information will include the Personal Declaration, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 14 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the HACM must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. The HACM will provide a landlord referral list of available units to assist the family in their search. If an acceptable unit is available for rental by the family, the HACM must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. EFFECTIVE DATES

The HACM must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the HACM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACM, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the HACM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACM.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HACM by the date specified, and this delay prevents the HACM from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and HACM policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the HACM must process interim reexaminations to reflect those changes. HUD regulations also permit the HACM to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The HACM must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and HACM policies describing what changes families are required to report, what changes families may choose to report, and how the HACM will process both HACM- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The HACM must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the HACM has limited discretion in this area.

The HACM will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACM approval. However, the family is required to promptly notify the HACM of the addition [24 CFR 982.551(h)(2)].

The family must inform the HACM of the birth, adoption or court-awarded custody of a child within 14 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HACM approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the HACM must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the HACM must issue the family a new voucher, give the family a

copy of the most recent landlord referral listing and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACM must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

Families must request HACM approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 30 cumulative days, within a twelve-month period, and therefore no longer qualifies as a "guest." Requests must be approved by the HACM prior to the individual moving in the unit.

The HACM will not approve the addition of a new family or household member unless the individual meets the HACM's eligibility criteria (see Chapter 3).

The HACM will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the HACM determines an individual meets the HACM's eligibility criteria as defined in Chapter 3, the HACM will provide approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the HACM will explain that the family will be issued another voucher and will be required to move.

If the HACM determines that an individual does not meet the HACM's eligibility criteria as defined in Chapter 3, the HACM will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The HACM will make its determination within 14 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the HACM if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the HACM also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a household member ceases to reside in the unit, the family must inform the HACM within 14 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HACM within 14 calendar days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the HACM has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the HACM may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

HACM-Initiated Interim Reexaminations

HACM-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the HACM. They are not scheduled because of changes reported by the family.

The HACM will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the HACM will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phased-in period).
- If the family has reported zero income, the HACM will schedule an office appointment to conduct an interim reexamination every 30 days by having the family submit a completed Zero Income Verification form as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HACM will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HACM will conduct an interim reexamination if the difference in income exceeds $200 threshold.

The HACM may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The HACM must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the HACM the freedom to determine the circumstances under which families will be required to report changes affecting income.

Families are required to report all increases in earned income, including new employment, within 14 calendar days of the date the change takes effect.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The HACM must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify the HACM of changes either orally or in writing. If the family provides oral notice, the HACM will also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the HACM determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HACM will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from the HACM. This time frame may be extended for good cause with HACM approval. The HACM will accept required documentation by mail, by fax, or in person.

Effective Dates

The HACM must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice

  to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the HACM must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic

policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the HACM's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the HACM changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the HACM's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

- If the payment standard amount has i*ncreased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.

- If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the HACM's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the HACM's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the HACM must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the HACM must use the HACM current utility allowance schedule [24 CFR 982.517(d)(2)].

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

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The HACM must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the HACM's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

If the family requests an informal hearing, the notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the HACM may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HACM may discover errors made by the HACM. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a HACM can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the HACM based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the HACM may consider in lieu of termination, the criteria the HACM must use when deciding what action to take, and the steps the HACM must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the HACM to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the HACM to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HACM.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of HACM subsidy goes down. If the amount of HCV assistance provided by the HACM drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HACM of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the HACM terminate the family's assistance at any time.

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, the HACM will follow the notice requirements in Section 12-II.E.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the HACM to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

The HACM must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

> If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations, but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the HACM will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C. and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The HACM must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The HACM must terminate assistance if;

1. A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
2. A family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
3. A family member, as determined by the HACM, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For 3 above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

The HACM must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The HACM must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the HACM to establish policies that permit the HACM to terminate assistance if the HACM determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

The HACM will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACM will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The HACM will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the HACM will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HACM may, on a case-by case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity* [24 CFR 5.100]**

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

The HACM will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The HACM will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the HACM will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HACM may, on a case-by case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]

HUD permits the HACM to terminate assistance under a number of other circumstances. It is left to the discretion of the HACM whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

The HACM will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency.

The HACM **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related HACM policies.
- If the family fails to fulfill its obligation under the Section 8 Welfare-to-Work.
- Any family member has been evicted from federally assisted housing in the last five years for serious violation of the lease or program.
- Any HA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
- The family currently owes rent or other amounts to any HA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any HA for amounts the HA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the HACM.

- A family member has engaged in or threatened violent or abusive behavior toward HACM personnel. *Abusive or violent behavior towards HACM personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the HACM will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HACM may, on a case-by case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The HACM must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

A family being absent for a period over 30 days must notify the HACM in accordance with the following:

- Planned absences – The family must provide 14 calendar days advance written notice of planned absences (vacations, extended hospital stays or stays in convalescent care facilities)
- Unplanned absences – The family must advise within 14 days if expected to be absent for 30 days or more such as hospital stays, jail or prison sentences.

Family must include reason for the absence, the anticipated date of return to the unit, address and telephone number where the family can be reached, and date of return or reason if unable to anticipate a date of return to the unit. The family may only have one long-term absence of 180 days away from the unit per year.

If the family's HAP contract was terminated for an absence which include, but are not limited to, hospitalization, convalescent care, or disability (excluding incarceration), the family may submit a new RTA or request readmission or resumption of assistance for the previously assisted unit if the family is recertified and able to return to the unit prior to the expiration of the voucher.

If the family is absent from the unit for more than 180 consecutive calendar days, the families assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

Insufficient Funding [24 CFR 982.454]

The HACM may terminate HAP contracts if the HACM determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The HACM will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the HACM determines there is a

shortage of funding, prior to terminating any HAP contracts, the HACM will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HACM will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the HACM will inform the local HUD field office. The HACM will terminate the minimum number needed in order to reduce HAP costs to a level within the HACM's annual budget authority.

If the HACM must terminate HAP contracts due to insufficient funding, the HACM will do so in accordance with the following criteria and instructions:

- Those HAPs with the most recent dates on new admissions will be terminated first.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The HACM is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the HACM the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the HACM may choose to take when it has discretion, and outlines the criteria the HACM will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the HACM terminates assistance depends upon individual circumstances. HUD permits the HACM to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the HACM may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HACM request to include notarized statement/self-certification.

Repayment of Family Debts

If a family owes amounts to the HACM, as a condition of continued assistance, the HACM will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HACM of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the HACM to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

The HACM will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

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

The HACM is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

The HACM will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The HACM will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If the family includes a person with disabilities, the HACM's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the HACM will determine whether the behavior is related to the disability. If so, upon the family's request, the HACM will determine whether alternative measures are appropriate as a reasonable accommodation. The HACM will only consider

accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 109-162, Pub.L. 109-271]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives PHAs the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

Victim Documentation

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HACM will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

> A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and
>
> One of the following:
>
> A police or court record documenting the actual or threatened abuse, or
>
> A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.
>
> The required certification and supporting documentation must be submitted to the HACM within 14 calendar days after the HACM issues their written request. The 14-day deadline may be extended at the HACM's discretion. If the individual does not provide the required certification and supporting documentation within 14 calendar days, or the approved extension period, the HACM may proceed with assistance termination.

If the PHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, the PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the HACM chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

HACM Policy

When the actions of a participant or other family member result in a HACM decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the HACM will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, the HACM will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, the HACM will proceed with termination of the family's assistance.

If the HACM can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, the HACM will bypass the standard process and proceed with the immediate termination of the family's assistance.

HACM Confidentiality Requirements

All information provided to the HACM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the HACM must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing as described in Chapter 16

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

When termination is initiated by the HACM, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HACM, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the HACM learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the HACM (see section 12-I.C.). The HACM will then send a confirmation notice to the family and the owner within 14 calendar days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The HACM must terminate assistance if;

1. A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status;
2. Evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or
3. The HACM determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the HACM either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the HACM is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease. However, the HACM's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the HACM a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the HACM a copy of any eviction notice (see Chapter 5).

If the eviction action is finalized in court, the owner must provide the HACM with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the HACM has no other grounds for termination of assistance, the HACM may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

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

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

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

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

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

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

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HACM at the same time the owner is notified.

- The family must promptly give the HACM a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- The composition of the assisted family residing in the unit must be approved by the HACM. The family must promptly notify the HACM in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACM approval to add any other family member as an occupant of the unit.

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

- The family must promptly notify the HACM in writing if any family member no longer lives in the unit.
- If the HACM has given approval, a foster child or a live-in aide may reside in the unit. The HACM has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACM consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by the HACM to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the HACM when the family is absent from the unit.

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HACM at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and HACM policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and HACM policies related to alcohol abuse.

- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACM has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

> Part I: Owners in the HCV Program. This part discusses the role of an owner in the HACM's HCV program and highlights key owner rights and responsibilities.
>
> Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the HACM and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including HACM policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

Housing Authorities are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the Housing Authority's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the HACM to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the HACM's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, HACMs must identify and recruit new owners to participate in the program.

The HACM will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HACM will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers;
- Contacting property owners and managers by phone or in-person; and
- Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the HACM must also provide the kind of customer service that will encourage participating owners to remain active in the program.

All HACM activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HACM will provide owners with a handbook that explains the program, including HUD and HACM policies and procedures, in easy-to-understand language.

The HACM will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HACM contact person.
- Coordinating inspection and leasing activities between the HACM, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the HACM to aid families in their housing search by providing the family with a list of landlords or other parties known to the HACM who may be willing to lease a unit to the family, or to help the family find a unit. Although the HACM cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the HACM their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACM. The HACM will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The HACM has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the HACM, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The HACM will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The HACM must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the HACM must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly-adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The HACM and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, PUB. L. 109-162]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit

- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the HACM information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the HACM), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

The HACM does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HACM may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The HACM must not approve the assisted tenancy if the HACM has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the HACM not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The HACM must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The HACM may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The HACM must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the HACM (except a participant commissioner)

- Any employee of the HACM, or any contractor, subcontractor or agent of the HACM, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The HACM must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the HACM must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the HACM, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the HACM or assistance under the HCV program for an eligible HACM employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the HACM, description of the nature of the investment, including disclosure/divestiture plans.

Where the HACM has requested a conflict of interest waiver, the HACM may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, the HACM will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the HACM, at the HACM's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the HACM disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

The HACM will refuse to approve a request for tenancy if the HACM becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity; or
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents;
- Threatens the health or safety of other residents, of employees of the HACM, or of owner employees 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; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the HACM will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the HACM may, on a case-by case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents HACM policy on legal ownership of a dwelling unit to be assisted under the HCV program.

- Signature on the contract and RTA is the lessors validation that he/she/they are the legal owners or the authorized agent to represent the legal owner.
- The HACM will require proof of ownership (e.g., deed of trust, proof of taxes for most recent year) if the HACM has received information or suspects the lessor is not the legal owner or authorized agent assigned by the legal owner.

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the HACM.

The owner must cooperate with the HACM and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the HACM.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the HACM and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the HACM's obligations. Under the HAP contract, the HACM agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the HACM's HCV program.

If the HACM has given approval for the family of the assisted tenancy, the owner and the HACM execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment,

utilities and appliances to be supplied by owner and tenant, signatures of HACM and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, HACMs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. HACM policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, HACMs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the HACM is deemed received by the owner (e.g., upon mailing by the HACM or actual receipt by the owner).

The HACM has not adopted a policy that defines when the housing assistance payment by the HACM is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- HACM Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- HACM and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the HACM. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the HACM must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The HACM must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the HACM is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the HACM HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the HACM is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the HACM, the excess amount must be returned immediately. If the HACM determines that the owner is not entitled to all or a portion of the HAP, the HACM may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the HACM, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The HACM is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the HACM fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if;

- The penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants;
- It is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and
- The owner charges the assisted family for late payment of the family's share of the rent.

The HACM is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the HACM's control. In addition, late payment penalties are not required if the HACM intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The HACM must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the HACM 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 owner must inform the HACM when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HACM when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HACM with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HACM will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the HACM of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS

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- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation ns for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the HACM determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The HACM rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The HACM may also obtain additional relief by judicial order or action.

The HACM must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The HACM must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

Before the HACM invokes a remedy against an owner, the HACM will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the HACM will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HACM will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The HACM terminates the HAP contract;
- The HACM terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;

- 180 calendar days have elapsed since the HACM made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the HACM;
- The Annual Contributions Contract (ACC) between the HACM and HUD expires; or
- The HACM elects to terminate the HAP contract.

The HACM may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the HACM terminates the HAP contract, the HACM must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACM gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the HACM any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the HACM.

An owner under a HAP contract must notify the HACM in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the HACM.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the HACM finds acceptable. The new owner must provide the HACM with a copy of the executed agreement.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The HACM must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 14 calendar days of receiving the owner's request, the HACM will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the HACM that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the HACM will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the HACM will process the leasing in accordance with the policies in chapter 9.

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Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The HACM is committed to ensuring that subsidy funds made available to the HACM are spent in accordance with HUD requirements.

This chapter covers HUD and HACM policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

> Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HACM policies related to preventing, detecting, and investigating errors and program abuse.
>
> Part II: Corrective Measures and Penalties. This part describes the corrective measures the HACM must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

The HACM anticipates that the vast majority of families, owners, and HACM employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the HACM's HCV program is administered effectively and according to the highest ethical and legal standards, the HACM will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HACM will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The HACM will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The HACM will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key HACM forms and form letters that request information from a family or owner.

HACM staff will be required to review and explain the contents of all HUD- and HACM-required forms prior to requesting family member signatures.

The HACM will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The HACM will provide each HACM employee with the necessary training on program rules and the organization's standards of conduct and ethics.

> For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the HACM will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the HACM to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, the HACM will employ a variety of methods to detect errors and program abuse.

The HACM routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The HACM will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all HAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HACM activities and notifies the HACM of errors and potential cases of program abuse.

The HACM will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HACM's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The HACM will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the HACM will investigate

The HACM will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HACM to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The HACM will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The HACM may investigate possible instances of error or abuse using all available HACM and public records. If necessary, the HACM will require HCV families to give consent to the release of additional information.

Analysis and Findings

The HACM will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the HACM will determine:

- Whether an error or program abuse has occurred
- Whether any amount of money is owed the HACM, and
- What corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the HACM will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the HACM will take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members;
- Any special circumstances surrounding the case;
- Any mitigating circumstances related to the disability of a family member; and
- The effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the HACM will take into consideration:

- The seriousness of the offense;
- The length of time since the violation has occurred; and
- The effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

The HACM will inform the relevant party in writing of its findings and remedies within 14 calendar days of the conclusion of the investigation. The notice will include:

- A description of the error or program abuse;
- The basis on which the HACM determined the error or program abuses;

- The remedies to be employed; and
- The family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER OR OVERPAYMENTS

A subsidy under or overpayment includes:

- An incorrect housing assistance payment to the owner;
- An incorrect family share established for the family; and
- An incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the HACM must promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the HACM or the HACM is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the HACM to use incorrect information provided by a third party.

Family Reimbursement to HACM [HCV GB pp. 22-12 to 22-13]

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HACM may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the HACM will terminate the family's assistance in accordance with the policies in Chapter 12.

HACM Reimbursement to Family [HCV GB p. 22-12]

The HACM will not reimburse the family for any underpayment of assistance when the family clearly causes the underpayment.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the HACM [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the HACM for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the HACM Board of Commissioners, employees, contractors, or other HACM representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HACM on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g. income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income); or
- Admission of program abuse by an adult family member

The HACM may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the HACM may, at its discretion, impose any of the following remedies.

- The HACM may require the family to repay excess subsidy amounts paid by the HACM, as described earlier in this section.
- The HACM may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The HACM may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The HACM may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the HACM

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the HACM any excess subsidy received. The HACM may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the HACM may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

In cases where the owner has received excess subsidy, the HACM will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the HACM [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:
- Any of the following will be considered evidence of owner program abuse:
- Charging the family rent above or below the amount specified by the HACM
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the HACM Board of Commissioners, employees, contractors, or other HACM representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HACM
- Residing in the unit with an assisted family

Remedies and Penalties

When the HACM determines that the owner has committed program abuse, the HACM may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any HACM programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. HACM-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACM staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HACM staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the HACM personnel policy.

HACM-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the HACM

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by HACM staff [HCV GB. 22-12].

HACM Reimbursement to Family or Owner

The HACM must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the HACM's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

Any of the following will be considered evidence of program abuse by HACM staff:

- Failing to comply with any HCV program requirements for personal gain;
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the HACM;
- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of HACM activities, policies, or practices misappropriating or misusing HCV funds;

- Destroying, concealing, removing, or inappropriately using any records related to the HCV program; or
- Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. CRIMINAL PROSECUTION

When the HACM determines that program abuse by an owner, family, or HACM staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HACM will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The HACM may retain a portion of program fraud losses that the HACM recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The HACM must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the HACM to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the HACM incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the HACM related to the collection, these costs must be deducted from the amount retained by the HACM.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The HACM may permit a family to use any of the special housing types discussed in this chapter. However, the HACM is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that HACMs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The HACM also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

Families will be permitted to use any special housing types.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I. SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the HACM's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
- *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security*: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II. CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the HACM, a family member or live-in aide may reside with the elderly person or person with disabilities. The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the HACM must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the HACM must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

> Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

PART III. GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the HACM, a live-in aide may live in the group home with a person with disabilities. The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the HACM should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
    - Dangerous walks or steps
    - Instability
    - Flooding, poor drainage
    - Septic tank back-ups
    - Sewage hazards
    - Mud slides
    - Abnormal air pollution
    - Smoke or dust
    - Excessive noise
    - Vibrations or vehicular traffic
    - Excessive accumulations of trash
    - Vermin or rodent infestation, and
    - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV. SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the HACM, a live-in aide may reside with the family to care for a person with disabilities. The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the HACM should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The HACM may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART V. COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI. MANUFACTURED HOMES

[24 CFR 982.620 through 982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

1. A family can choose to rent a manufactured home already installed on a space and the HACM must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

2. HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. HACMs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The HACM may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

The HACM must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the HACM must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The HACM must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII. HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The HACM must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a HA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. HACMs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. HACM offers both forms of assistance; a family must choose which form of assistance to receive.

- A single down payment assistance grant or
- Monthly homeownership assistance payments.

The HACM must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the HACM to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The HACM must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The HACM may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the HACM has otherwise opted not to implement a homeownership program.

The HACM 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.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The HACM may also establish additional initial requirements as long as they are described in the HACM administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.

- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The HACM may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the HACM's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the HACM must grant an exemption from the employment requirement if the HACM determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the HACM may limit homeownership assistance to families or purposes defined by the HACM, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the HACM administrative plan.

If the HACM limits the number of families that may participate in the homeownership option, the HACM must establish a system by which to select families to participate.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the HACM must determine that the unit satisfies all of the following requirements:

- The unit must meetHUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the HACM and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For HACM-owned units all of the following conditions must be satisfied:
  - The HACM informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a HACM-owned unit is freely selected by the family without HACM pressure or steering;
  - The unit is not ineligible housing;
  - The HACM obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any HACM provided financing. All of these actions must be completed in accordance with program requirements.

The HACM must not approve the unit if the HACM has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL HACM REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The HACM may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the HACM, the HACM may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the HACM. HUD suggests the following topics for the HACM-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the HACM jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The HACM may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The HACM may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the HACM offers a program of ongoing counseling for participants in the homeownership option, the HACM shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the HACM does not use a HUD-approved housing counseling agency to provide the counseling, the HACM should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND HACM DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The HACM may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the HACM has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing,

electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The HACM may not require the family to use an independent inspector selected by the HACM. The independent inspector may not be a HACM employee or contractor, or other person under control of the HACM. However, the HACM may establish standards for qualification of inspectors selected by families under the homeownership option.

The HACM may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the HACM a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the HACM may deny approval of a seller for the same reasons a HACM may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The HACM may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt.

A HA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the HACM may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the HACM the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the HACM or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the HACM or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the HACM before moving out of the home.
- The family must notify the HACM if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different HACMs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of:

- The voucher payment standard minus the total tenant payment, or
- The monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HACM will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The HACM may pay the homeownership assistance payments directly to the family, or at the HACM's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the HACM must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

The HACM must adopt policies for determining the amount of homeownership expenses to be allowed by the HACM in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the HACM to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The HACM allowance for maintenance expenses;
- The HACM allowance for costs of major repairs and replacements;
- The HACM utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the HACM determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the HACM to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The HACM allowance for maintenance expenses;
- The HACM allowance for costs of major repairs and replacements;
- The HACM utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the HACM determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and HACM policies, a family may exercise portability if the receiving HA is administering a voucher homeownership program and accepting new homeownership families. The receiving HA may absorb the family into its voucher program, or bill the initial HA.

The family must attend the briefing and counseling sessions required by the receiving HA. The receiving HA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving HA must promptly notify the initial HA 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 HACM.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The HACM may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.

- At any time, the HACM may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the HACM's policy regarding number of moves within a 12-month period.

The HACM must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the HACM may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The HACM may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

The HACM must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the HACM's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the HACM. This part describes policies for recovery of monies that the HACM has overpaid on behalf of families, or to owners, and describes the circumstances under which the HACM will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a HACM.

Part VI: Record-Keeping. All aspects of the program involve certain types of record keeping. This part outlines the privacy rights of applicants and participants and record retention policies the HACM will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the HACM's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the HACM's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The HACM must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a HACM fiscal year. If funds in the administrative fee reserve are not needed to cover HACM administrative expenses, the HACM may use these funds for other housing purposes permitted by Federal, State and local law.

If the HACM has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the HACM to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the HACM Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the HACM's Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the HACM to adapt the program to local conditions. This part discusses how the HACM establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in the HACM's offices during normal business hours and on the HACM web site at www.hamonterey.org.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HACM will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the HACM each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard

quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The HACM must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the HACM's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the HACM may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the HACM is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the HACM must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the HACM to make further adjustments if it determines that rent burdens for assisted families in the HACM's jurisdiction are unacceptably high 24 CFR 982.503(g)].

The HACM will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the HACM will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability**: The HACM will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HACM will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.
- **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HACM will consider increasing the payment standard. In evaluating rent burdens, the HACM will not include families renting a larger unit than their family unit size.
- **Quality of Units Selected**: The HACM will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
- **Changes in Rent to Owner**: The HACM may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.
- **Unit Availability:** The HACM will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.
- **Lease-up Time and Success Rate**: The HACM will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1st of every year unless, based on the proposed FMRs, it appears that one or more of the HACM's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the HACMs payment standards will be effective October 1st instead of January 1st.

If the HACM has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the HACM will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the HACM at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The HACM must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any HACM with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the HACM's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the HACM's payment standard schedule.

When needed as a reasonable accommodation, the HACM may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The HACM may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HACM must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the HACM may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the HACM to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the HACM must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;

- The HACM had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The HACM had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the HACM may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the HACM's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The HACM must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A HACM-established utility allowance schedule is used in determining family share and HACM subsidy. The HACM must maintain a utility allowance schedule for:

(1) All tenant-paid utilities;

(2) The cost of tenant-supplied refrigerators and ranges; and

(3) Other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the HACM must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the HACM must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the HACM about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

The HACM has not included an allowance for air-conditioning in its schedule.

Reasonable Accommodation

HCV program regulations require a HA to approve a utility allowance amount higher than shown on the HACM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HACM will approve an allowance for air-conditioning, even if the HACM has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

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

The HACM must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When the HACM makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

HAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The HACM must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the HACM waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HACM

- General policy issues or class grievances
- A determination of the family unit size under the HACM subsidy standards
- A HACM determination not to grant approval of the tenancy
- A HACM determination that the unit is not in compliance with the HQS
- A HACM determination that the unit is not in accordance with the HQS due to family size or composition

The HACM will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the HACM waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The HACM must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the HACM decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the HACM either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACM's denial of assistance.

Except as provided in Section 3-III.G, the HACM must schedule and send written notice of the informal review within 14 calendar days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the HACM.

The Conflict Resolution and Mediation Center of Monterey County may conduct the Review.

The person conducting the review will make a recommendation to the HACM, but the HACM is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

The HACM must notify the applicant of the Informal Hearing Officer's decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the Hearing Officer will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

- The validity of the evidence. The Hearing Officer will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial and the denial is required by HUD, the HACM will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the HACM will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The HACM will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555 Pub.l. 109-162]

HACMs must offer an informal hearing for certain HACM determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HACM's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the HACM's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HACM policies.

The HACM is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the HACM must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HACM utility allowance schedule
- A determination of the family unit size under the HACM's subsidy standards
- A determination that a voucher program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HACM's subsidy standards, or the HACM determination to deny the family's request for exception from the standards

- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HACM policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the HACM
- General policy issues or class grievances
- Establishment of the HACM schedule of utility allowances for families in the program
- A HACM determination not to approve an extension or suspension of a voucher term
- A HACM determination not to approve a unit or tenancy
- A HACM determination that a unit selected by the applicant is not in compliance with the HQS
- A HACM determination that the unit is not in accordance with HQS because of family size
- A determination by the HACM to exercise or not to exercise any right or remedy against an owner under a HAP contract

The HACM will only offer participants the opportunity for an informal hearing when required by program regulations.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

When the HACM makes a decision that is subject to informal hearing procedures, the HACM must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the HACM must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the HACM's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the HACM makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the HACM.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the HACM's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the HACM's hearing procedures.

***Scheduling an Informal Hearing* [24 CFR 982.555(d)]**

When an informal hearing is required, the HACM must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to the HACM either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACM's decision or notice to terminate assistance.

The HACM must schedule and send written notice of the informal hearing to the family within 14 calendar days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, the HACM may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HACM within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HACM will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

***Pre-Hearing Right to Discovery* [24 CFR 982.555(e)]**

Participants and the HACM are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HACM documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the HACM does not make the document available for examination on request of the family, the HACM may not rely on the document at the hearing.

The HACM hearing procedures may provide that the HACM must be given the opportunity to examine at the HACM offices before the hearing, any family documents that are directly relevant to the hearing. The HACM must be allowed to copy any such document at the HACM's expense.

If the family does not make the document available for examination on request of the HACM, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of HACM documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The HACM must be given an opportunity to examine at the HACM offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the HACM will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

***Participants Right to Bring Counsel* [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer* [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the HACM, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

The HACM has designated the Conflict Resolution and Mediation Center of Monterey County to conduct Informal Hearings.

All persons requesting an Informal Hearing must complete a "Request For Informal Hearing," which will be provided by the Housing Authority. The completed form must then be mailed within 14 calendar days by the assisted family to the "Conflict Resolution and Mediation Center of Monterey County," at: 2560 Garden Road, Monterey, CA 93940 - TEL: 649-6110 or 424-4694.

The Hearing Officer will be appointed by the "Conflict Resolution and Mediation Center," and will schedule the date, time, place, and notify all parties of the hearing.

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A HACM representative(s) and any witnesses for the HACM
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the HACM as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the HACM's hearing procedures [24 CFR 982.555(4)(ii)].

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

***Evidence* [24 CFR 982.555(e)(5)]**

The HACM and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing, which is relevant to the case, for example, a letter written to the HACM. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the HACM or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

***Hearing Officer's Decision* [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

- **HACM Notice to the Family**: The hearing officer will determine if the reasons for the HACM's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if the HACM and the family were given the opportunity to examine any relevant documents in accordance with HACM policy.

- **HACM Evidence to Support the HACM Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HACM's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HACM policies. If the grounds for termination are not specified in the regulations or in compliance with HACM policies, then the decision of the HACM will be overturned.

The hearing officer will issue a written decision to the family and the HACM no later than 14 calendar days after the hearing. The report will contain the following information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the HACM representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HACM's decision.

Order: The hearing report will include a statement of whether the HACM's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HACM to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the HACM to restore the participant's program status.

Procedures for Rehearing or Further Hearing

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 HACM will take effect and another hearing will not be granted.

In addition, within 14 calendar days after the date the hearing officer's report is mailed to the HACM and the participant, the HACM or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing

officer and to the other party within the 14 calendar-day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the HACM to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

***HACM Notice of Final Decision* [24 CFR 982.555(f)]**

The HACM is not bound by the decision of the hearing officer for matters in which the HACM is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the HACM determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the HACM must promptly notify the family of the determination and the reason for the determination.

The HACM will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the HACM's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HACM hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HACM informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.

- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HACM either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the HACM receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HACM must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the HACM with a copy of the written request for appeal and the proof of mailing.

The HACM will notify the family in writing of the results of the USCIS secondary verification within 14 calendar days of receiving the results.

The family must provide the HACM with a copy of the written request for appeal and proof of mailing within 14 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the HACM, of its decision. When the USCIS notifies the HACM of the decision, the HACM must notify the family of its right to request an informal hearing.

The HACM will send written notice to the family of its right to request an informal hearing within 14 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HACM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HACM notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The HACM must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate

of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the HACM pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of HACM documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the HACM, and to confront and cross-examine all witnesses on whose testimony or information the HACM relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the HACM, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The HACM may, but is not required to provide a transcript of the hearing.

The HACM will not provide a transcript of an audio taped hearing.

Hearing Decision

The HACM must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HACM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HACM notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The HACM must retain for a minimum of 5 years the following documents that may have been submitted to the HACM by the family, or provided to the HACM as part of the USCIS appeal or the HACM informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE HACM

16-IV.A. OVERVIEW

HACMs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the HACM [24 CFR 982.54]. This part describes the HACM's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HACM holds the owner or participant liable to return any overpayments to the HACM.

The HACM will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the HACM, the HACM will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-IV.B. REPAYMENT POLICY

Owner Debts to the HACM

Any amount due to the HACM by an owner must be repaid by the owner within 30 days of the HACM determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HACM will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HACM will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACM will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the HACM

Any amount due to the HACM by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the HACM will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACM will terminate the assistance upon notification to the family and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to the HACM in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement and Payment Thresholds

Prior to the execution of a repayment agreement, the owner or family must pay following percentages based on the balance owed to the HACM:

Initial Payment Due

(% Of Total Amount)	Amount Owed	Maximum Term
50%	Up to $500	6 - 9 months
30%	$501 - $1,000	9 - 18 months
20%	$1,001 - $2,500	12 - 36 months
10%	above $2501	72 - months

Execution of the Agreement

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

Non-Payment

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HACM, the HACM will send the family a

delinquency notice giving the family 14 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HACM will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HACM will terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

The HACM will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

Family's request to move

If the family requests a move to another unit and has a payment agreement in place for the payment of an owner claim, and the payment agreement is not in arrears:

- The family will be permitted to move.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the HACM, the HACM will:

- Require the family to pay the balance in full or
- Will terminate the housing assistance

Writing off Debts

Debts will be written off if:

The debtor's whereabouts are unknown and the debt is more than one (1) year old.

Continued efforts to collect have been unsuccessful.

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 one (1)year.

The amount is less than $150 and the debtor cannot be located.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure HACM performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each HA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the HACM in several ways.

- High-performing HAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- HAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].

- HAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, HAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a HA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

HACM must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by HACM board resolution and signed by the HACM executive director. If the HACM is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

HAs with less than 250 voucher units are only required to be assessed every other HA fiscal year. HUD will assess such HAs annually if the HA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a HA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A HA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the HACM’s SEMAP certification, HUD will rate the HACM’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The HACM or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the HACM's certification on the indicator due to the HACM's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A HA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the HA has written policies in its administrative plan for selecting applicants from the waiting list and whether the HA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the HA's written policies, according to the HA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the HA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the HA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the HA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the HA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the HA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the HA maintains an up-to-date utility allowance schedule. • Points are based on whether the HA has reviewed the utility allowance schedule and adjusted it when required, according to the HA's certification.
Indicator 5: HQS quality control inspections **Maximum Score: 5** • This indicator shows whether a HA supervisor reinspects a sample of units under contract during the HA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections. • Points are based on whether the required quality control reinspections were completed, according to the HA's certification.
Indicator 6: HQS enforcement **Maximum Score: 10** • This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no

more than 30 calendar days from the inspection or any HA-approved extension.

- Points are based on whether the HA corrects all HQS deficiencies in accordance with required time frames, according to the HA's certification.

Indicator 7: Expanding housing opportunities
Maximum Points: 5

- Only applies to HAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the HA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the HA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the HA has adopted and implemented written policies in accordance with SEMAP requirements, according to the HA's certification.

Indicator 8: FMR limit and payment standards
Maximum Points: 5 points

- This indicator shows whether the HA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the HA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the HA has appropriately adopted a payment standard schedule(s), according to the HA's certification.

Indicator 9: Annual reexaminations
Maximum Points: 10

- This indicator shows whether the HA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations
Maximum Points: 5

- This indicator shows whether the HA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections
Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections
Maximum Points: 10

- This indicator shows whether the HA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that

are more than 2 months overdue, according to data from PIC.
Indicator 13: Lease-up **Maximum Points: 20 points** • This indicator shows whether the HA enters HAP contracts for the number of units or funding reserved under ACC for at least one year. • Points are based on the percent of units leased during the last completed HA fiscal year, or the percent of allocated budget authority that has been expended by the HA, according to data from the HA's last year-end operating statement that is recorded in HUD's accounting system.
Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances **Maximum Points: 10** • Only applies to HAs with mandatory FSS programs. • This indicator shows whether the HA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances. • Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.
Success Rate of Voucher Holders **Maximum Points: 5** • Only applies to HAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full HA fiscal year following the date of HUD approval of success rate payment standard amounts. • This indicator shows whether voucher holders were successful in leasing units with voucher assistance. • Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.
Deconcentration Bonus Indicator **Maximum Points: 5** • Submission of data for this indicator is mandatory for a HA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full HA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile. • Additional points are available to HAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data. • Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The HACM must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HACM must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the HACM must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the HACM must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting HACM budget and financial statements for the program;
- Records to document the basis for HACM determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D. Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

HAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACM staff.

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

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HACM may release the information collected.

Enterprise Income Verification (EIV) Records

HAs that access EIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Enterprise Income Verification (EIV) System HACM Security Procedures*, Version 1.2, issued January 2005.

Prior to utilizing HUD's UIV system, the HACM will adopt and implement UIV security procedures required by HUD.

Criminal Records

The HACM may only disclose the criminal conviction records which the HACM receives from a law enforcement agency to officers or employees of the HACM, or to authorized representatives of the HACM who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HACM must establish and implement a system of records management that ensures that any criminal record received by the HACM from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACM action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HACM must establish and implement a system of records management that ensures that any sex offender registration information received by the HACM from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACM action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a HA other than under 24 CFR 5.905.

Medical/Disability Records

HAs are not permitted to inquire about the nature or extent of a person's disability. The HACM may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACM receives a verification document that provides such information, the HACM should not place this information in the tenant file. The HACM should destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The HACM has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting

requirements, and data collection and record keeping responsibilities that the HACM is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The HACM must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

The HACM will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the HACM must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the HACM obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the HACM must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the HACM must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the HACM must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the HACM is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow HAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the HA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the HACM will use to determine whether or not the HACM has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

The HACM will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HACM's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HACM will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The

projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HACM cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACM will be considered to have insufficient funding.

PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-IX.A. NOTIFICATION TO PARTICIPANTS [Pub.L. 109-162]

VAWA requires PHAs to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

The HACM will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the participant of HACM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACM will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

16-IX.B. NOTIFICATION TO APPLICANTS

The HACM will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of HACM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACM will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

Inform property owners and managers of their screening and termination responsibilities related to VAWA. The HACM may utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate in day--to--day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.

Signs in the HACM lobby and/or mass mailings, -which include model VAWA certification forms.

Chapter 17

FAMILY UNIFICATION PROGRAM

INTRODUCTION [24 CFR Parts 882 and 982]

This program is designed to promote family unification by providing rental assistance to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separating of children from their families.

PART I: PROGRAM REQUIREMENTS AND PROCEDURES

17-I.A. OVERVIEW

Family Unification eligibility is based on a family fitting the following criteria, Federal Regulation/vol.14, no. 43, dated March 5, 1999.

- The imminent placement of the family's child or children in out-of-home care
- The delay of discharge of a child or children to the family from out-of-home care

17-I.B. DEFINITIONS

For purposes of the Family Unification Program, Family Unification eligible family means a family:

- Whom the public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care, or in the delay of discharge of a child or children to the family from out-of-home care; and
- Whom the Housing Authority has determined is eligible for Section 8 Housing Choice Voucher Assistance.
- Lack of Adequate Housing means a situation in which a family is living in substandard housing, or is, or will be involuntarily displaced from a housing unit.
- Public child welfare agency means the public agency that is responsible under applicable State Law for determining that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

17-I.C. THE ROLE AND RESPONSIBILITIES OF THE HACM IN THE SELECTION OF FAMILIES FOR THE FAMILY UNIFICATION PROGRAM

Determining whether the families referred by the CSD are eligible for any Section 8 Housing Choice Voucher assistance, the HACM does not re-determine eligibility for FUP program.

The HACM will review the existing Section 8 waiting list to identify families that may be eligible for the Family Unification Program. The HACM will continue to review new applicants for the Section 8 program and refer the families on the Section 8 waiting list to the CSD for a determination of whether the family meets eligibility requirements;

- Processing of housing subsidies and distribution to families in the order referred;

- Make changes in administrative and equal opportunity plan where necessary;
- Maintain quality program data for future program evaluation;
- If Section 8 assistance to any FUP family is terminated, the Housing Choice Voucher will be reissued to another eligible family. The HACM guarantees that 50 Section 8 Housing Choice Vouchers will be available for FUP families.
- The HACM will expedite the process for third party verification of a family's income and eligibility to the maximum extent possible. The HACM will complete the third party verification while the family is searching for a unit and will use oral verification where applicable.

17.I.D. THE ROLE AND RESPONSIBILITIES OF THE CHILD WELFARE AGENCY (CSD IN THE CERTIFICATION OF FAMILIES FOR THE FAMILY UNIFICATION PROGRAM)

Establish and implement a system to identify eligible families within the agency's caseload and reviewing referrals from the HACM; CSD is responsible for certifying families eligible for FUP;

Develop procedures for referring FUP eligible families to the HACM and provide written certification to the HACM that a family qualifies for the FUP;

Commit staff to ensure that eligible families are identified and the certification process is completed in a timely manner; and

CSD agrees to maintain relevant data and provide written information as requested for program evaluation.

17.I.E. PROCEDURE FOR USE OF THE HACM WAITING LIST FOR SECTION 8 RENTAL ASSISTANCE

The HACM will first review its list to determine if there are any CSD referred families already on the list who may be eligible.

In those instances where the Housing Authority waiting list is closed, and the waiting lists have been exhausted for FUP families, the HACM may open the list for family Unification Program eligible families only. These families may be referred by the CSD, private service providers or families may refer themselves.

Once a list of FUP eligible families has been made, FUP Housing Choice Vouchers will be disbursed in the rank order of the Section 8 waiting list.

17.I.F. HACM TENANT SELECTION OF FAMILIES

Families on the Eligibility List for the Family Unification Program that also qualify for Section 8 Housing Choice Vouchers will be offered housing based on:

- Their rank order on the Section 8 waiting list, or the order in which they were referred, and;
- Availability of a Family Unification Program Section 8 Housing Choice Voucher of the budget allotment needed;

17-I.G. FAMILY UNIFICATION PROGRAM HEARING/GRIEVANCE PROCEDURE

All persons applying to or enrolled in the Family Unification Program can request an informal hearing from the HACM on their Section 8 application.

The HACM is responsible for defending its eligibility decisions, pertaining to the family's eligibility for Section 8 rental assistance. Section 8 HCV informal hearing procedures will be utilized.

The CSD is responsible for defending its FUP family eligibility determinations

The procedure to be used in these instances shall be the same as currently in effect for Section 8 Participants, as set forth in Chapter 16 of the Administrative Plan.

17.I.H. TERMINATION OF RENTAL ASSISTANCE

The termination of rental assistance shall be in accordance with Chapter 12 of the Administrative Plan.

If Section 8 Assistance for a family under this program is terminated, the Housing Choice Voucher must be reissued to another eligible family under FUP.

Chapter 18

THE FAMILY SELF-SUFFICIENCY PROGRAM (FSS)

INTRODUCTION

The purpose of the Family Self-Sufficiency (FSS) is to establish a relationship between public and private agencies and the Housing Authority of the County of Monterey (HACM) that will enable very low-income families who are eligible to receive assistance under the Section 8 Housing Choice Voucher program to also receive high quality comprehensive supportive services. It is the Housing Authorities intent that these supportive services may in turn enable housing assistance recipients to achieve economic independence and self-sufficiency.

PART I: FSS PROGRAM

18.I.A. OVERVIEW

The ultimate goal is to eliminate the tenant's dependency on welfare assistance and subsidized housing. Various local resources, such as childcare, transportation, etc. will be provided to the FSS program participants. The community services will be coordinated and delivered to the participating families within their five-year contract period. This assistance will position them to obtain the employment and educational training that they require so they can attain self-sufficiency.

18.I.B. STRUCTURE OF THE FSS PROGRAM

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance, Section 8 housing assistance, and other Federal, State, and local subsidies.

The FSS program links participants to high quality, comprehensive supportive services including education, job training, counseling, and other forms of social service assistance necessary to achieve self-sufficiency. A successful FSS program in the County of Monterey will enhance the standard of living and self-esteem of the participants as they become more productive members of the community and are no longer dependent on governmental assistance. All rules and regulations and eligibility requirements of the Section 8 program apply to the FSS participants except where noted.

The Housing Authority of the County of Monterey is fully supportive of the FSS program. The HACM realizes that an effective FSS program will require a combination of flexibility and creativity for participating families, service providers, and HACM staff. The HACM understands that there are both personal and systematic roadblocks to overcome before a family can escape from long-term poverty and gain economic independence. Nonetheless, achievement of the families' goals is possible, and the HACM is committed to the FSS program's efforts.

18.I.C. SUPPORTIVE SERVICES

The HACM will periodically contact agencies providing supportive services to participating families. The Authority will use this contact as a means of measuring the participant's progress. Agency responses will also be used to determine if any of the participants needs are not being met and to work on ways to better serve the program participants.

We believe that, for a motivated client, gainful employment and family stability are attainable within a five- year period. However, the likelihood of success is significantly higher when self-sufficiency is pursued within the context of a system of support services. True economic self-

sufficiency is a goal that clients must continue to pursue long after the completion of the FSS Contract of Participation.

18-I.D. FSS PROGRAM SIZE [24 CFR 984.105 (ii)]

When funding is available, the HACM will enroll eligible applicants or existing Section 8 participants whose eligibility has been determined.

The HACM will not discriminate against otherwise qualified persons because of their disabilities and will make reasonable accommodations to the person's disability to allow participation in the program. The HACM may decide that an accommodation is not reasonable if it causes undue financial and/or administrative burdens.

FSS Coordinator Funding

For continued funding of the FSS Coordinator position for the Housing Authority of the County of Monterey, the Authority will determine the number of mandatory FSS vouchers per HUD regulations [24 CFR 984.105].

18-I.E. INCENTIVES TO ENCOURAGE PARTICIPATION [24 CFR 984.201 (5)]

The HACM has established many incentives to encourage participation in the FSS program. Listed below are just a few of the inducements being offered to participating families on the FSS program:

Opportunity

The primary incentive given to FSS participants is the opportunity to change the household's social and economic status from one of dependence on subsidies to one of self-sufficiency and self-reliance.

Community Resources

A host of community resource agencies is at the disposal of each program participant to access and utilize on an as-needed basis for training, education, and workshop purposes. Each participant will be linked with job training, educational, and supportive service agencies to provide the supportive services necessary to develop self-sufficiency. FSS families will be provided with information on local homeownership opportunities also.

Escrow Account

An escrow account will be opened for each FSS participant who signs the Contract of Participation (COP). The escrow account will be funded by the families increase in earned income. It will be maintained in accordance with the requirements set forth in 24 CFR 984.305 of the Federal Register published May 27, 1993, 24 CFR Part 905 et al., and Family Self Sufficiency Program Final Rule. The HACM will deposit the FSS account funds of all participating families into a single depository account.

Assurances of Non-Interference with Rights of Non-Participating Families

[24 CFR 984.201 (10)]

Tenant participation in the FSS program is strictly voluntary. Therefore, all tenants will be notified in all literature related to the FSS program should they decide not to participate in the FSS program, it will not affect their Section 8 housing subsidy. The family will retain their right to occupancy according to their lease.

18-I.F OUTREACH EFFORTS FOR FSS PARTICIPANTS [24 CFR 984.103 (2)]

The HACM will recruit potential FSS participants through a variety of modes to ensure high levels of participation and to gain acceptance and support of the FSS program concept in the local community. Therefore, program outreach activities will be targeted primarily to all eligible families on the Section 8 program.

The HACM will provide sufficient information to interested families to allow them to make an informed decision concerning participation in the FSS program. Recruitment activities will include, but are not limited to:

- Mailing informational brochures and/or flyers to all Section 8 recipients including FSS information in related HACM publications.
- Posting FSS information on bulletin boards and providing informational brochures at the HACM office and other social service agencies.
- Providing information regarding the FSS program to caseworkers from other social service agencies.
- Presentations at community meetings as the need arise.
- Promotion through the local media
- Eligible Section 8 recipients may be told of the benefits of the FSS program at the time new vouchers are issued and at each annual re-examination appointment.

Outreach materials will provide basic information on how the FSS program works, what a family needs to do to get involved and a contact person for more information. An explanation of the incentives offered to encourage participation will also be included. Outreach methods and materials will comply with all applicable Fair Housing and Equal Opportunity requirements. As tenant turnover occurs, the FSS Coordinator will provide written information concerning the FSS program to all eligible tenants in the Section 8 Housing Choice Voucher program.

If these measures do not result in sufficient enrollment in the FSS program according to HUD requirements, the HACM will implement additional outreach activities to eligible Section 8 families.

PART II: PARTICIPANT SELECTION PROCESS, IDENTIFYING NEEDS & COMPLETION OF PROGRAM

18-II.A. FAMILY SELECTION PROCEDURES [24 CFR 984.203]

Families selected for participation in the FSS program will consist of eligible recipients of the Housing Choice Voucher Program. Selection will be made without regard to race, color, religion, sex, handicap, familial status, or national origin.

FSS Preferences

The HACM gives an FSS selection preference in the following order:

1. Incoming portable families with active FSS Contracts of Participation in accordance with the Portability section (Chapter 10) of the Section 8 Administrative Plan;
2. Existing Section 8 families;
3. Eligible waitlist applicants.

FSS Enrollment Process: Prospective FSS participants will be given an FSS program application in addition to informational materials describing the program.

Applications: The submission of a completed application form constitutes notification to the HACM of the applicant's interest in the FSS program. Applicants will be placed on an FSS waitlist by the date and time their application was received by the HACM.

In-Take Interviews: Each client that wished to enroll in the FSS program is scheduled for an in-take interview. The potential participant is instructed to complete a Client Profile form and bring it to the in-take interview. FSS staff uses the profile as a starting point in conducting the in-take interview, assessing the client and family's needs, and developing the Individual Training and Service Plan (ITSP).

Motivational Screening: The HACM will use the following as a means of screening for interest and motivation to participate in the FSS program:

- Prompt attendance at the in-take interview.
- Completion of the Client Profile form prior to the interview.
- Completion of assigned tasks as part of the development of the ITSP.

Good Standing*:* Clients interested in enrolling in the FSS program must be in good standing with the HACM. A client will not be considered for the FSS program if he or she is in violation of a written agreement with the HACM to repay amounts paid to a landlord by the Housing Authority on behalf of the family. A delinquent balance or a pattern of missed payments under an executed repayment agreement will render a client ineligible for the FSS program. A client with an executed repayment agreement and a record of timely payments is considered a client in good standing.

Eligibility*:* The Housing Authority will consider a family eligible for the FSS program when the following conditions are met:

- The family has submitted an FSS application.
- The family does not owe money to the HACM or any other Housing Authority.
- The family is not in violation of any Section 8 regulations including Housing Quality Standards (HQS).
- The family has completed assessments or assignments required for the purpose of developing an ITSP.
- The family must be willing to pursue the goals of the FSS program and be willing to enter into a contractual agreement with the Housing Authority.

When space is available in the FSS program, the next eligible family on the waitlist will be contacted for an interview with the FSS Coordinator to complete the ITSP and sign a Contract of Participation (COP). Applicants who do not schedule and attend the interview or who are not willing to sign an FSS COP will be taken off the FSS waitlist.

Participation in the FSS program is strictly voluntary. A family's election not to participate in the FSS program will in no way jeopardize their right to occupancy in accordance with their Section 8 program. They will retain their right to tenancy in the Section 8 housing assistance program.

The HACM will consider a family ineligible for the FSS Program under the following conditions:

- The family was terminated from a previous FSS program.
- The family completed the FSS Contract of Participation.
- The family owes money to the HACM.
- The family was previously on the FSS program and was awarded their escrow funds.

Denial of FSS Participation

The HACM may, at its discretion, deny participation in the FSS program to a family that:

Previously participated and was terminated from FSS because they did not meet their FSS obligations as per the COP.

- Does not meet the requirements of the family selection procedures described in the Family Selection Procedures section on page (4) of this document.

Families denied participation in the FSS program may request an informal hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines in this plan. The request for an informal hearing must be made in writing within seven (7) working days of the date of notification of the decision to deny participation.

Equal Opportunity

The Housing Authority of the County of Monterey assures that selection of participating families will be made in a nondiscriminatory manner without regard to race, color, religion, sex, family status, national origin, sexual orientation, disability, or political affiliation in compliance with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended and Executive Order 11063.

18-II.B. IDENTIFICATION OF FAMILY SUPPORT NEEDS

FSS program participants will be required to complete a detailed client profile that will help determine family support needs. After reviewing the response to the client profile, the FSS Coordinator will work with the participant to develop an ITSP tailored to that client. The type of supportive services and resources to be provided to eligible participating families will be based on individual needs. The Housing Authority anticipates that the major needs for services and resources will be in the following categories:

- Education
- Job Training
- Childcare
- Transportation
- Money Management/Financial Strategies
- Homeownership Counseling

With the support of the FSS staff, the client sets his/her own goals. FSS staff is available to provide information, offer guidance, support, suggest options, and make constructive observations about the appropriateness of the client's goals. If there are adult members in the

family who are also interested in participating in the FSS program, they will also be interviewed and guided in the development of options and goals.

The Individual Training and Service Plan is developed as a result of discussions between the FSS Coordinator and the perspective participant. Specific goals are identified, defined, and sequenced. The client will receive assistance with mapping out the sequence of interim steps that need to be taken to achieve each goal and to establish realistic target dates for their completion. All goals are concrete, measurable, reasonable, appropriate, and include the mandatory final goal of obtaining and maintaining suitable employment.

In addition to stating the participant's final goals, the ITSP also delineates the supportive services the participant will need in order to meet each short and long- term goal. Just as the participant commits himself/herself to fulfilling the goals specified in the ITSP, the Housing Authority makes a commitment to ensure that the client has access to key services and resources essential to the accomplishment of his/her goals. FSS staff assists in accessing an array of supportive services provided by the network of private, public, and community agencies that have lent their support to the Family Self-Sufficiency program.

Applicants may be required to complete assessments or assignments relating specifically to the development of an ITSP. Assignments may include, but are not limited to:

- Completing career exploration
- Developing a family budget
- Seeking professional assistance for family members with substance abuse, health, or mental health issues.

When finalized, the ITSP becomes an attachment to the COP. Execution of the Contract of Participation enrolls the client in the FSS program.

Community Resources: A host of community resource agencies is at the disposal of each program participant to use on an as needed basis for training, education, and workshop purposes. Each participant will be linked with job training, educational, and supportive services agencies to provide the services necessary to develop self-sufficiency. FSS families will also be provided with information on local homeownership opportunities.

18-II.C CONTRACT OF PARTICIPATION

Each client entering the FSS program must execute a COP with the Housing Authority. The Contract of Participation (HUD form 52650) is executed after the FSS Coordinator and the client have worked together to identify and prioritize the client's needs and goals. The COP with attached ITSP establishes the terms and conditions governing FSS participation; the rights and responsibilities of the client and the Housing Authority; the services to be provided to the client; and the activities the client agrees to undertake.

The effective date of he COP is the first day of the month after the contract is executed. The contract term is five (5) years. At the request of the family, an extension of up to two (2) years may be granted. Extensions are granted for good cause only and at the HACM sole discretion. If the FSS participant exercises portability and enters another Housing Authority's FSS program, the new contract will be for the term remaining on the initial contract, with the initial income base.

The head of the FSS family signs the Contract of Participation. The head of the FSS family is defined as the head of the client's household for purposes of determining income eligibility and rent. The head of the FSS family need not necessarily be the leaseholder.

The COP must include an ITSP for the FSS client and any family member (18) years or older who chooses to participate in the FSS program. All applicable Individual Training and Service Plans and the COP must be signed by the FSS client (or participating family member), and the FSS Coordinator. The plan outlines the resources and services the Housing Authority agrees to provide, and it contains clear and specific short and long-term goals with completion dates by which progress toward self-sufficiency can be measured and evaluated. The plan also provides a format for recording each goal the client agrees to fulfill. It will also detail the sequence of steps that must be taken to meet each goal and the services needed to support the client's efforts.

Family Obligations: The ITSP must state the final goal of: 1) obtaining and maintaining suitable employment throughout the contract term; 2) for all members to be free of welfare assistance at least one year before the contract expiration date, including any extensions; and 3) consideration of homeownership.

Head of Household **must:**

- Seek and maintain suitable employment throughout the contract term;
- Complete activities in the ITSP within the specified dates;
- Provide the HACM with information about the family's participation in the FSS program upon request, including information regarding employment, job interviews, training, education, attendance, and other FSS services and activities.

All family members **must:**

- Comply with the terms of the Section 8 program and lease agreement;
- Comply with the family obligations under the Section 8 program; and
- Live in the jurisdiction of the FSS program at lease twelve (12) consecutive months from the effective date of the contract, unless waived by the HACM;
- Be free from welfare assistance at least twelve (12) months prior to the expiration date of the COP.

In order to fulfill the employment requirement, the participant must actively and consistently pursue job opportunities, submit employment applications, attend job interviews, etc. Participants are expected to routinely provide reports to the FSS program on his/her progress in obtaining suitable employment. The suitability of employment is based on the labor market for the area. The HACM is responsible for assessing the suitability of the job(s) the participant is seeking. However, decisions regarding suitability are made with the maximum input and involvement of the participant. Our aim is to help our participants seek and obtain employment that pays the client a "living wage."

Participants whose ITSP contains interim educational goals are required to seek and maintain a suitable job after the contracted course of study is completed. We also encourage participants who are part-time students to seek and obtain a part-time job while in school. The requirements to seek and maintain employment during the term of the FSS contract cannot be met by merely attending school or a training program.

Extensions

The COP may be extended for a period of up two (2) years when the Housing Authority determines that circumstances beyond the family's control prevent the timely completion of the goals in the ITSP. Extensions will only be granted in cases of extenuating circumstances, such as major illness, involuntary job loss, or to allow families to meet the interim goal of independence from welfare assistance for twelve consecutive months prior to graduation. If the client believes that he/she has a good cause for needing a contract extension, he/she must submit a written request to the Housing Authority **prior** to the expiration date of the COP.

All extensions to the term of the COP will be granted at the sole discretion of the FSS Coordinator and Director of Housing Assistance Programs. If the client is employed and has earned income in excess of the amount stated on the COP, credits will continue to be posted to the client's FSS escrow account during the contract extension.

Modifications

If the Housing Authority and the family mutually agree, the Contract of Participation may be modified in the following areas: content of the ITSP; designation of FSS head of household, and contract term (see Extensions).

The FSS program will make every effort to ensure that all needed support services are provided to the family. If an agency is unable to provide the agreed upon services, the HACM will make a good faith effort to obtain the services from another agency. If that is not possible, we will explore with the client the option of providing an alternative service. If the unavailable services are essential to the family's ability to achieve self-sufficiency, the ITSP will be revised to delete the unavailable services and/or add the alternative services.

If the family circumstances require that the ITSP be amended, the goals and support activities in the plan must be revised in writing, with the revisions signed and dated by the participant and the FSS Coordinator. However, all goal completion dates must be prior to the contract expiration date.

A change in the designated FSS head of household **must** be included as a written attachment to the Contract of Participation, signed and dated by the FSS Coordinator and the new head of the FSS family. If the FSS head of household leaves the home during the contract term, the family member that retains the voucher may be designated the new head of the FSS family. If the new head of the household plans to continue the family's participation in the FSS program, an ITSP will be established for the new head.

As a signatory to the COP, the new head of the FSS family will be required to meet all contract obligations and FSS goals. If the new head of household does not wish to participate in the FSS program, the family's participation will be terminated and the escrow funds will be forfeited.

If an adult member of the household who was participating in FSS leaves the home, that persons ITSP will be deleted from the COP. A written revision to the COP is required for all changes in FSS household composition that involves the development of a new ITSP or deletion of plans for absent family members.

Completion

The Contract of Participation will be considered successfully completed when the family has fulfilled all of its contractual obligations on or before the expiration of the contract term, including any extensions. FSS staff will verify that: 1) the family has been free of welfare assistance for at least one year prior to the contract expiration date; 2) the head of household is suitably employed; and 3) the family has met all of the terms as specified in the COP.

The COP will also be deemed complete when 30% of the family's monthly- adjusted income exceeds or equals the existing Fair Market Rent (FMR) for the applicable unit size. Under this circumstance, the COP could be completed in less than the allotted five-year period.

A family may continue to receive Section 8 assistance following successful completion of the COP. A family remaining on the Section 8 program following successful completion of the FSS program will not be allowed to participate in the FSS program a second time.

The HACM has sole discretion to determine whether the family has successfully completed its Contract of Participation.

Procedures for Graduation

1) FSS Family Responsibility - To successfully graduate from the program, the family must:
    - Demonstrate that all interim and final goals in the COP were completed on or before the expiration date of the contract.
    - Submit verification that all household members are independent of welfare assistance.
    - Submit verification that the head of household is suitably employed.
    - Submit a request for consideration for graduation in writing to the HACM.
2) The HACM Responsibility:
    - The FSS Coordinator and the Director of Housing Assistance Programs (HAP) will review requests for graduation consideration.
    - The HACM will disburse any accumulated escrow funds to the family upon determination of successful graduation.

Denial of Graduation Request

If the HACM determines that a participant did not successfully complete the program requirements, the participant may request an informal hearing to determine whether the decision to deny graduation was made in accordance with HUD regulations and the guidelines in this plan. A request for an informal hearing must be made in writing within ten (10) calendar days of the date of notification of the decision to deny graduation from the FSS program.

Non-Compliance

If the family does not comply with its obligation under the Contract of Participation, including the obligation to seek and maintain employment, the HACM will withhold supportive services, terminate the family's participation in the FSS program, and reclaim the funds in the family's escrow account. Prior to termination of FSS participation, the client will be counseled, warned in writing, permitted to revise the ITSP, if appropriate, and offered the choice of voluntary

withdrawal from the FSS program. If the proposed FSS termination proceeds, the client will be afforded the opportunity for an informal hearing, as outlined in the Housing Authority's Administrative Plan.

The family is eligible to continue receiving Section 8 assistance following termination of FSS participation, however the family will not be eligible to re-apply for the FSS program in the future. At termination, the family will be reclassified as a non-FSS family, and a replacement family will be selected for the available program slot.

If the family's Section 8 assistance is terminated, its FSS participation will be terminated simultaneously. The client will be entitled to an informal hearing with regard to the termination of housing assistance; an additional informal hearing for the simultaneous FSS termination will not be granted.

Withdrawal

An FSS participant may withdraw from the program with written notice to the Housing Authority stating the reason for withdrawal. A withdrawal will be considered a termination by mutual consent. The participant will forfeit the funds in the escrow account. Following a withdrawal from the program, the participant will be eligible to re-apply for the FSS program in the future; however at the time of re-application; the participant's name will be placed at the bottom of the FSS waiting list. At the time of withdrawal, the family will be re-classified as a non-FSS family and a replacement family will be selected for the FSS program.

PART III: ESCROW ACCOUNTS, PORTABILITY AND PROGRAM TERMINATION

18-III.A. ESCROW ACCOUNTS

The Housing Authority of the County of Monterey offers monetary and non-monetary incentives to encourage participation in the FSS program as a means of rewarding participants to progress towards self-sufficiency.

Non-monetary: Participants receive numerous non-monetary benefits, such as comprehensive case management services, access to a network of resources, peer support, advocacy, and a safe setting to practice life skills. The individual attention, support and problem solving assistance provided by the FSS staff provides very real benefits in terms of sustaining gains in self-esteem, promoting family stability and unity during times of transition while fostering expectations of success.

Escrow Account: Monetary incentives are established via credits to a savings account in the name of the participant called an escrow account. The amount of the escrow account credit varies according to the family's increase in earned income. The base-line earned income figure is determined by the family's earned income at the time of the signing of the Contract of Participation. Escrow funds are placed in an interest bearing depository account and made available to the FSS client upon successful completion of the COP.

Credit Calculation: Families participating in the FSS program continue to pay rent in accordance with their incomes. Tenant rent is calculated according to the Housing Choice Voucher program regulations. Annual re-examinations for FSS are scheduled and conducted in accordance with re-examination procedures utilized for all HACM clients as outlined in the Administrative Plan. FSS clients are subject to the same requirements with respect to verifications of household income and composition. HUD requires all participants to report all changes in household composition to the Housing Authority between annual re-examinations.

FSS participants are urged to report increases in earned income in order to accurately calculate escrow credit.

When the FSS COP is executed, the family's annual income, earned income, and family rent are inserted into the contract to be used as base-line figures for future escrow calculations. The Housing Choice Voucher program defines the family rent as 30% of the adjusted monthly income. The annual income, earned income, and family rent figures in the COP are derived from the family's most recent annual or interim re-examination provided that less than 120 days have elapsed between the effective date of the most recent re-examination and the effective date of contract. If more than 120 days have elapsed, a new re-examination shall be conducted prior to the execution of the COP.

The Housing Authority's Section 8 Administrative Plan states that families must report increases or decreases in income/assets between regular re-examinations (See Chapter 12.C Reporting Interim Changes [24 CFR 982.516]). FSS participants will be permitted to report an increase in family income in order to establish or increase FSS escrow credit while paying a higher rent. The client will be required to provide all appropriate documentation supporting the change in income to the Section 8 Housing Specialist. The rent increase and the posting of the corresponding escrow credit will take effect the first of the month after the standard (30) day notification period.

The FSS credit is based on the family' increase in earned income. It does not include increases in welfare benefits or other unearned income or the income of children under 18. If the FSS client marries, the spouse's earned income will be counted when computing the FSS escrow credit whether or not the spouse is actively participating in the program. If the family reports no income, no escrow credit will be received until earned income is generated and reported. Credits to the FSS escrow account will cease when the COP has been successfully completed, terminated, or otherwise nullified.

Escrow Accounting

Escrow funds are deposited in an interest bearing account managed by the Housing Authority County of Monterey Finance Department. A monthly balance sheet detailing the family's escrow credit and applicable interest accumulation is generated. Once the family begins to pay a rent portion based on the presence of earned income, the FSS credit will be computed according to HUD guidelines and credited to the family's account monthly. Each family receives an annual statement detailing the status of the escrow account that includes the balance and accrued interest.

In the event that the family becomes delinquent in their rent payments, the balance in the FSS account will be reduced by that amount prior to the pro-ration and distribution of interest income. FSS account balances are adjusted in cases of rent delinquency because the credit is based on the amount of rent the family actually paid, not the amount charged.

Disbursement of Escrow Funds

The amount in the FSS account in excess of any amount owed to the Housing Authority by the family will be paid to the head of the FSS family when the COP has been successfully completed and verified by the Housing Authority that no member of the FSS family has received any for of welfare assistance for at least on year.

If the family fulfills its FSS contract obligations prior to the end of the five year contract period, and the Housing Authority has verified that no member of the FSS family has received any

welfare assistance for at least one year, the head of the FSS family will be paid the amount in the FSS account less any amount owed by the family to the Housing Authority. Early completion of the contract obligations can also occur when the family's tenant payment (30% of the monthly adjusted income) is equivalent to the Section 8 Fair Market Rent for the unit size for which the family qualifies.

Interim Disbursements: Escrow funds may be withdrawn before the completion of the contract if the family has completed specific interim goals designated by the Housing Authority of the County of Monterey. The determination to disburse funds will be at the sole discretion of the FSS Coordinator and the Director of Housing Assistance Programs under the following conditions:

- The funds are needed to complete goals in the family's COP (example: to pay for school tuition, job training, or business start-up expenses);
- The family can demonstrate completion of specific interim goals from its COP;
- Interim disbursements may not be granted for more than 50% of the family's escrow balance at the time of request;
- The HACM will not grant more than (2) interim disbursements per family;
- The request for interim disbursement must be in writing and include verification that the funds will be utilized for the completion of a goal as stated in the family's COP; and
- Interim escrow disbursements will be paid in the form of a check made payable to the agency or business providing the required items or services.

Succession

If the head of the FSS family ceases to reside in the assisted unit, the remaining members of the household may designate another family member to receive the escrow funds upon successful completion of the COP. The designation of an alternate family member to receive the escrow funds must be made in consultation with the FSS Coordinator. If the FSS head of the family separates from his/her spouse, the family member retaining the voucher may designate him/herself to receive the escrow as authorized by FSS regulations.

Forfeiture of Escrow Funds

[24 CFR 984.305 (f)]

If an FSS participant's COP is terminated or declared null and void the family has no right to receive funds from the family's FSS escrow account. The Housing Authority will close the family's escrow account and may use the forfeited funds in accordance with HUD regulations.

Escrow monies in the FSS account will be forfeited if the Housing Authority terminates the COP or if the COP is completed but the family is receiving welfare assistance when the contract expires, including any extensions. If an FSS family fails to pay rent per the lease agreement under the Section 8 Housing Choice Voucher program, the funds may be forfeited because compliance with the Section 8 housing lease is a family obligation under the contract. Non-payment of rent is grounds for terminating a family's FSS participation and forfeiture of the escrow account.

FSS account funds that are forfeited by a FSS family will be treated as program receipts for the payment of program expenses under the Housing Authority budget for the applicable Section 8 program, and shall be utilized in accordance with HUD requirements governing the use of such program receipts.

18-III.B. PORTABILITY

Potential candidates for the FSS program proceed through the intake process without regard to their status as portability clients. If an incoming portability client is selected for the FSS program, the client's voucher will be absorbed by the Housing Authority of the County of Monterey in order to facilitate the client's participation in the Family Self-Sufficiency program.

Out-Going Portables

As the FSS client begins to consider exercising portability, the FSS Coordinator will discuss all transfer options with the client. It is the responsibility of the FSS family to inform the receiving Housing Authority of its FSS status and to contact the FSS Coordinator at the receiving Housing Authority. FSS clients porting out of Monterey County must promptly re-enroll in the receiving housing authority's FSS program if they wish to continue their participation in the program. If the client is unable to continue participation in the receiving housing authority's FSS program and it is not feasible for the family to continue in the HACM FSS program after transfer, the family's participation in the HACM FSS program willbe terminated. Support services will cease and the family will forfeit funds in the FSS account.

Incoming Portables

The Housing Authority of the County of Monterey is not obligated to accept incoming portable FSS participants into the FSS program. Acceptance of incoming portable clients is entirely at the discretion of the Housing Authority. A selection preference will not be granted to FSS families transferring in from other jurisdictions. The HACM will accept incoming FSS families as allotted FSS slots become available.

It is the responsibility of the FSS family exercising portability into the HACM jurisdiction to notify the Housing Authority of their status as an FSS participant. Families that notify HACM of their FSS status within ninety (90) days of the date of their lease up in the Housing Authority's jurisdiction may be accepted into the FSS program, as space is available.

Denial of FSS Participation

The HACM may, at its discretion, deny participation in the FSS program to a family that previously participated and was terminated from the program because they did not meet their FSS obligations according to the COP.

Families denied participation in the FSS program may request an informal hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines in this plan. The request for an informal hearing must be made in writing within seven (7) working days of the date of the decision to deny participation.

18-III.C. PROGRAM TERMINATION / WITH–HOLDING OF SERVICES AND AVAILABLE GRIEVANCE PROCEDURES [24 CFR 984.303]

Families that fail to meet their FSS obligations will be terminated from the FSS program. The COP will be cancelled, supportive services will be discontinued, and the funds in the escrow account will be forfeited. The family will be allowed to continue receiving Section 8 assistance

provided that the family continues to meet all obligations under the Housing Choice Voucher program. The family will retain its voucher and will be re-classified as a non-FSS family. They will not be eligible to re-apply for the HACM FSS program in the future.

If a family's Section 8 voucher assistance is terminated for fraud, criminal activity, or violation of obligations under the Section 8 program the family will simultaneously be terminated from the FSS program. The FSS Contract of Participation will be cancelled, supportive services will cease, and any escrow funds accumulated will be forfeited.

The termination of an FSS family's Section 8 voucher assistance due to fraud, criminal activity, etc. shall be handled in a manner identical to that used for non-FSS families. An additional hearing in connection with the FSS termination will not be granted.

Reasons for Termination

The COP may be terminated before the scheduled contract term for any of the following reasons:

Mutual consent by participant and the FSS Coordinator

- The FSS family fails to meet its obligations outlined in the COP
- The family withdraws from the FSS program
- Other acts deemed inconsistent with the purposes of the FSS program or by operation of law

Failure to meet the terms of the COP may include:

- Continued unexcused absences from scheduled meetings or appointments
- Failure to seek and maintain suitable employment
- Refusal to comply with the contract obligations
- Failure to complete the requirements of the ITSP

Available Grievance Procedure

If the HACM staff determines the need to terminate or withhold a participant's supportive services under the COP for failing to comply with the terms of the contract, the participant will be allowed to request an informal hearing before the termination is executed.

All notices of termination will be in writing. The reason for termination will be specifically explained in the notice. All requests for a hearing must be in writing. The HACM will make a good-faith effort to informally resolve the complaint prior to a scheduled hearing. Participants shall have the right to withdraw their request for a hearing in writing any time prior to the scheduled hearing date.

Participants shall have the right to be represented, at their own expense, by a person(s) of their choosing at all levels of the compliant process. All complaints concerning FSS are to be made directly to the Housing Authority's FSS Coordinator.

Request for Hearing

A participant has ten (10) calendar days from the date of termination notice in which to request a hearing. A request for a hearing that is not received within the ten-day time limit will no be considered. The HACM **will not** grant any extensions of time in which to file. The request for a hearing **must** include the following information:

- Full name, telephone number, and the mailing address of the participant,
- Written request for a hearing based upon the actions taken by the Housing Authority; and
- Summary statement of the reasons the participant feels that termination is not justified.

The Director of Housing Assistance Programs will review all requests for hearings filed by participants of the FSS program. The Director of Housing Assistance Programs may reinstate the program participant to the FSS program if extenuating circumstances offered by the participant warrant the reinstatement.

18-III.D. ASSURANCE OF NON-INTERFERENCE

Participation in the Family Self-Sufficiency Program is voluntary and is not a requirement for continued Section 8 voucher assistance. A family's election not to participate in the FSS program will not affect the family's admission to or continued participation in the Section 8 Housing Choice Voucher program or the family's right to occupancy in accordance with it lease.

18-III.E. PROGRAM COORDINATING COMMITTEE [24 CFR 984.202]

The Housing Authority of the County of Monterey will maintain a Program Coordinating Committee (PCC) to assist the FSS program in securing commitments from public and private resources for the operation of the FSS program. The PCC will act as an advisory body to the FSS program. Additionally, the PCC will expedite and coordinate agreements between the HACM and potential service providers. The PCC will meet annually.

Chapter 19

WELFARE-TO-WORK RENTAL VOUCHERS PROGRAM

INTRODUCTION

This program is targeted to welfare recipients for whom housing assistance is critical to obtaining or retaining employment.

The Quality Housing and Work Responsibility Act of 1998, provides enhanced incentives for work through practices such as income disregards, ceiling rents and it also allows Housing Authorities to create admissions preferences for families moving from welfare-to-work.

Families gain access to employment, training, education, case management and childcare and other services through programs. These and other programs work through partnerships with local public, private and nonprofit service providers.

For purposes of the Welfare-to-Work Program: Welfare-to-work rental voucher program eligible family means a family that meets the eligibility requirements of the normal tenant-based Section 8 assistance program.

PART I: PROGRAM ELIGIBILITY AND LOCAL PREFERENCES

19-I.A. ELIGIBILITY CRITERIA FOR WELFARE-TO-WORK RENTAL VOUCHERS PROGRAM

Welfare to Work eligibility is based on a family, which meets the following criteria, (Federal Regulation/Vol. 64, No.18, dated January 28, 1999.)

- Families must be eligible to receive, be currently receiving, or shall have received within the preceding two years, assistance or services funded under the TANF program.
- Tenant-based housing assistance must be determined to be critical to the family's ability to successfully obtain or retain employment; and
- The family shall not already be receiving tenant-based assistance under Section 8 Housing Assistance Program.
- To be eligible for selection for the Section 8 Welfare-to-Work Rental Voucher Program, families must be on the waiting list used by the Housing Authority for its tenant-based Section 8 program and meet the eligibility criteria of the welfare-to-work program.

19-I.B. APPLICANT ELIGIBILITY

- Applicants exempt from the CalWORKS requirements are not eligible for the Welfare to Work Program.
- The applicant does not qualify for the Welfare to Work Voucher if the applicant is not able to work or attend school.

19-I.C. PARTICIPANT CONTINUED ELIGIBILITY

- To continue to qualify for the WTW Voucher Program, the participant must be working or going to school.
- Employed is defined as working a minimum of 128 hours per month for a single parent or 140 hours per month for a two-parent household.
- Attending school is defined as a minimum of 6 units from an accredited college or as defined in a vocational training program or adult education facility.
- Maximum period of time a participant can be without employment or going to school is six (6) months accumulative during a 12-month period. Receiving unemployment benefits satisfies employment requirement.
- Success on WTW Program is when the family has been independent of welfare assistance for at least five (5) years.
- The WTW Voucher will be revoked and rental assistance will terminate upon breach of the WTW Contract of Participation.
- The WTW participant can transfer their voucher to another jurisdiction that has a WTW Program. Exceptions will be considered if the participant can verify with third party documentation that the move is a result of gaining or maintaining employment or to further their education.
- If a participant becomes disabled and eligible to receive SSI, the client will be issued a Section 8 Housing Choice Voucher.
- If a participant has received workman's compensation for a consecutive 12-month period, the client will be issued a Section 8 Housing Choice Voucher.
- If a participant is terminated for non-compliance, participant must wait for a period of one year before re-applying. If participant is re-admitted to the program for a second time and is terminated for non-compliance (a second time) must wait for a period of two years before re-applying. Each subsequent termination for non-compliance will be progressive.

19-I.D. WELFARE-TO-WORK WAITING LIST LOCAL PREFERENCES

All applications are ranked by the Ranking Point system and the date and time of application

Applicants who are graduating from a transitional housing program, who are receiving CalWORKs assistance, or are employed and who still receive supportive services paid by CalWORKs**.** **20 Points**

Applicants who are presently employed, and who have been employed for no more than one year, and who receive supportive services paid by CalWORKs. This includes childcare assistance, transportation assistance, health, food stamps, and other services. **15 Points**

Applicants who are participating in a job training, preparation, job counseling, job development and placement program. **10 Points**

Applicants who are enrolled in an educational program such as remedial education or post secondary education. **10 Points**

Other CalWORKs household. Applicants that are now employed who are not receiving support services but had received AFDC/TANF within the last two years. **10 Points**

PART II: HACM ROLE AND RESPONSIBILITIES

19-II.A. THE ROLE AND RESPONSIBILITIES OF THE HOUSING AUTHORITY IN THE SELECTION AND HOUSING OF FAMILIES FOR THE WELFARE-TO-WORK RENTAL VOUCHER PROGRAM

- The Housing Authority's primary focus will be to conduct outreach to reach the targeted population, to provide housing counseling for clients during their housing search and at initial lease up to insure the successful retention of their housing.
- The Housing Authority will review the existing Section 8 waiting list to identify families that may be eligible for the Welfare-to-Work Rental Voucher Program. The Housing Authority will continue to review new applicants for the Section 8 program and refer the families on the Section 8 waiting list to the Department of Social Services for a certification of whether the family meets welfare-to-work eligibility requirements.
- Processing of housing subsidies and distribution to families in the order of applications by date and time and priority rankings.
- The Housing Authority will expedite the process for third party verification and if necessary will use other HUD accepted verification of a family's income and eligibility to the maximum extent possible.
- The Eligibility Specialist will make the determination of whether housing assistance is critical to the family's success in the welfare to work program based on the information provided by referring agencies.
- The Housing Authority will coordinate the housing assistance with the efforts of the CalWORKs and OET (Office for Employment and Training) programs.
- The Housing Authority will provide outreach to landlords to promote fair housing and landlord acceptance of Section 8 Vouchers under the program.
- The Family Self-Sufficiency Coordinator will assist families to address barriers to employment.
- If Section 8 assistance to any Welfare-to-Work family is terminated, their voucher will be reissued to another WTW eligible family.
- Maintain quality program data for future program evaluation.

- Make changes in Administrative and Equal Opportunity Plan where necessary.

19-II.B. TENANT COUNSELING

Upon request of the participant, the FSS Coordinator will conduct a needs assessment in order to determine the supportive services needed by the family. The client may be referred to the following supportive services, which are available within the Community and / or paid for by CalWORKs.

- Childcare which provides sufficient hours of operation and which serves an appropriate range of ages to meet family needs.
- Transportation resources that may be needed by a family.
- Remedial Education and education to better job skills.
- Education for completion of secondary or post secondary education or completion of a GED
- Job Training, job preparation, and specialized counseling.
- Referral to substance abuse programs for any member of the family.
- Training in money management and credit repair.
- Parenting skills classes.
- Gang intervention specialist
- Training in household management, housekeeping skills
- Job Placement and follow-up
- Domestic violence counseling

Participants will be provided monthly opportunities for counseling in basic life skills, which will enhance the participant's ability to find and retain employment and any other service/resource as appropriate to assist the families to transition from welfare assistance.

19-II.C. THE ROLE AND RESPONSIBILITY OF PARTICIPATING AGENCIES IN THE REFERRAL AND CERTIFICATION OF FAMILIES FOR THE WELFARE-TO-WORK RENTAL VOUCHERS PROGRAM

- Each agency will be responsible for individualized services, which are the focus of that Agency.
- Applications may be distributed to potential WTW housing clients by One Stop Center as they are accessing employment services and other related services.
- Community Agencies, which assist persons with disabilities to access services, will also be utilized for referral of their clients who are also actively participating in CalWORKs

activities. These agencies include the Veterans Transition Center, John XIII AIDS Ministry, California Department of Rehabilitation, and the Center for Independent Living

- Department of Social Services CalWORKs job programs and Community Partners Agencies will also be utilized to assist with the outreach and recruitment of eligible families to be included on the waiting list.
- The local CalWORKs, Office for Employment Training, Adult School, Vocational Training, Community College, or other welfare-to-work program must certify the individual's preference eligibility and that the individual is actively participating in their CalWORKs activities.
- Provision of supportive services to assist clients to remain employed as authorized by CalWORKs.

19-II.D. PROCEDURE FOR USE OF THE HOUSING AUTHORITY WAITING LIST FOR SECTION 8 WELFARE-TO-WORK RENTAL PROGRAM

- The Housing Authority will first review its waiting list to determine if there are any Welfare-to-Work families already on the list who may be eligible.
- In those instances where the HACM waiting list is closed and the waiting lists have been exhausted for the Welfare-to-Work Rental Voucher Program families, the HACM may open the list for Welfare-to-Work eligible families only. These families may be referred by the Department of Social Services, education facilities, or other service providers.
- Once a list of Welfare-to-Work eligible families has been established, the Welfare-to-Work Rental Vouchers will be disbursed by the families place on the waiting list based on date and time of application and priority given.

Chapter 20

PROJECT BASED SECTION 8

INTRODUCTION

(*This policy is for units accepted into the PBV Program prior to November 14, 2005.)*

The Housing Authority is authorized under 24 CFR Subpart A, Section 983.1, to provide Section 8 project based assistance utilizing funds provided to the Housing Authority for the Section 8 Housing Choice Voucher Program.

A. PROJECT-BASE SECTION 8

Maximum of 25% of dwelling units in a building may have project-based assistance. Dwelling units in single-family properties,consisting of four units or less buildings, and dwelling units specifically for elderly / disabled families are exempt from the 25% limit.

Dwelling units where families receive supportive services will be exempt after rulemaking takes place to define supportive services.

Units for disabled families may not target a specific disability and should locate units for disabled families in the most integrated setting possible.

Existing housing is a unit that at the time of written notice of selection of the project for project-based assistance require less than $1,000 per unit, including the prorated share of any work to be performed in common areas or systems to meet Housing Quality Standards, and lead based paint standards. Existing housing is exempt from the site and neighborhood standards criteria.

B. METHOD OF UNIT SELECTION

Unit Selection Policy

Only applications that are received in response to the HA advertisement will be considered for project basing. The advertisement will solicit applications for new, rehabilitation construction, or existing units.

Existing housing for non-elderly and non-disabled units will selected in a non-competitive manner, not rated and ranked, as long as all information requested is contained in the application.

Applications will be selected by date and time received at the HA.

Separate advertisement shall be used for existing non-elderly and /or non-disabled units that will be held to the 25% unit limitations.

For existing elderly and disabled units in excess of the 25% limitation, ranking factors should include factors that address site, design, feasibility and experience of the participants in operation of such housing or programs.

All buildings selected must be located in census tracts with poverty levels of less than 20%.

For new construction and rehabilitation the Environmental Review Process must be completed prior to HAP. Subsidy layering review, if tax credits are involved must be completed. For new construction HUD will approve all site locations, and for rehabilitation, the HA approves site locations, unless it is a HA owned property.

C. AGENCY RESPONSIBILITIES

Overview of Project Based Role of Responsibilities

Purpose of Agreement

For any units assisted under the Project Based Program, the HA and the Owner enter into a contract, which includes the Housing Assistance Payment (HAP) Contract. The Agreement between the owner and the Housing Authority, states upon the satisfactory inspection of existing housing and verification that less than $1,000 is necessary for rehabilitation, or if new construction, or rental rehabilitation, the completion of new construction or rehabilitation, in accordance with the requirements outlined in the Agreement, the HA will enter into a HAP contract with the owner**.**

HAP Contract Responsibilities

The HA enters into a Housing Assistance Payment (HAP) contract to make housing assistance payments during the ten-year contract term for a specific unit, or for a period as long as the Housing Authority has funding under an ACC. The subsidy is paid when the owner leases the unit to an eligible family. To fill the vacant project based units, the HA refers families from its waiting list to the project owner. The assistance is tied to the unit, but if the family moves from the unit after a one-year period, the Housing Authority must issue a tenant based Voucher to allow the family to move wherever it chooses. When the family vacates the unit, the unit is rented to another eligible family.

D. CONTRACT TERM

The initial term is for a maximum of ten years, subject to future availability of appropriations.

Term of renewal contract is for number of years HA selects, subject to future availability of appropriations and future availability of funding under the ACC.

The HA may deny extension of an ACC to a project owner for failure to maintain units or other owner misconduct specifically identified in the Section 8 program regulations and the administrative plan.

E. ELIGIBLE PROPERTIES

Existing housing for non-disabled, and non-elderly households, will have certain benefits to select for project basing, due to the inapplicability of certain factors including neighborhood standards (other than poverty level census tracts exceeding 20%), displacement and relocation, Davis Bacon Requirements, Environmental Review, minimum project expenditures, owner application submission prior to agreement and unit selection policy.

As long as existing housing requiring less than $1,000 to meet Housing Quality Standards (HQS), assistance may be attached to 25% or less of the units in a building. For units, that are occupied, all tenants must be income eligible for the Section 8 program. The owner application is not necessary for existing units.

At least 60 days prior to the effective date of the HAP contract the owner must notify the HA of any units expected to be vacant on the ant icipated date of the HAP contract. The HA must refer to the owner from the separate waiting list, an appropriate sized family. When the HAP contract is executed, the owner must notify the HA of which units are vacant.

F. INELIGIBLE PROPERTIES

The HA may not attach Project Based Section 8 assistance to any of the following units:

Housing for which the construction or rental rehabilitation is initiated prior to an Agreement is executed with the HA. Existing housing is exempt from these criteria.

Housing for which the rehabilitation is initiated prior to an Agreement with the HA.

Shared housing, nursing homes; and facilities providing continual psychiatric, medical, nursing services board and care or intermediate care.

Units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions;

Housing located in the Coastal Barrier Resources System designated under the Coastal Barrier Resources Act;

Housing located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having a special flood hazard, unless the community in which the area is situated is participating in the National Flood Insurance Program

A public housing or Indian housing unit.

College or other school dormitories;

A manufactured home;

A unit subsidized by any other form of Section 8 assistance either project or tenant based;

A unit subsidized by any local or State rental subsidy;

Section 236 Project (insured or uninsured); or a unit subsidized with Section 236 Rental assistance payments;

A Rural Development Administration 515 project;

A unit subsidized by rental assistance payments under the Section 521 program of the Housing Act of 1949 (Rural Development Adm. Program);

A Section 221(d)(3) project;

A project with a Section 202 or 811 Loan, including Supportive Housing for the Disabled or Elderly;

A Section 101 rent supplement;

A unit subsidized with tenant based assistance under the HOME Program;

Any unit with other duplicative Federal, State or local housing subsidy, as determined by HUD.

A unit occupied by the owner, however, cooperatives are considered to be rental housing for purposes of part 983.

Eligibility of Single Room Occupancy Units

The HA may attach assistance to units for use as single room occupancy (SRO) *only* if *the following occur:*

The property is located in an area in which there is a significant demand for these units, as determined by the HUD field office.

The HA and the unit of local government that has jurisdiction over the property, approve the attaching of assistance to these units; and

The HA and the unit of local government with jurisdiction over the property certify to HUD that the property meets applicable local health and safety standards.

HA Owned Units

A HA owned unit is a unit other than public housing which is owned by the Housing Authority that administers the assistance under part 983, under an ACC between HUD and the HA. This includes any entity substantially controlled by the HA.

Procedures for HA Owned Units

The HUD field office must select the HA owned unit pursuant to the competitive ranking and rating system outlined in this Project Based Plan.

The HUD field office must conduct all HA reviews required under part 983 before the execution of the Agreement to Project Base, and prior to initiation of construction or rehabilitation.

The HUD field office must establish the initial contract rents.

The HA shall conform with the regulations outlined at 982.352, Subpart H, relating to HA owned housing that requires the HA to obtain the services of an independent entity to perform the HA functions.

G. SITE, CONSTRUCTION AND REHABILITATION STANDARDS

All Housing quality and construction standards outlined in 982.401 apply to assistance designated under the Project Based Section 8 Program, including the following:

New Construction Standards

For all new construction, HUD must approve the new site as meeting the following site and neighborhood standards:

Must be of adequate size, shape and contour to accommodate the number and type of units, and have access to adequate utilities such as water, sewer, electricity and gas, and the streets must be available to service the site.

The site and surrounding neighborhood must be suitable from the perspective of furthering and facilitating full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD implementing regulations.

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.

A project may be located in an area of minority concentration only if:

Sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration.

The Project is necessary to meet overriding housing needs that cannot be met in that housing market area.

Sufficient does not require that in every locality there are an equal number of assisted units within and outside of areas of minority concentration. HUD interprets the application of this standard in a way that the production of a reasonable distribution of assisted units occur each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families, and in relation to the racial mix of the locality's population.

Units are considered comparable, if they have the same household type, i.e., elderly, disabled, family, large family and tenure type, i.e., owner, or renter. Units must require the same tenant contribution towards rent; serve the same income group; be located in the same housing market; and are in standard condition.

Application of the sufficient standard involves assessing the overall impact of HUD assisted housing on the availability of housing choices for low-income minority households in and outside areas of minority concentration, and must take into consideration the extent to which the following factors are present, along with other factors relevant to housing choice:

A significant number of assisted housing units are available outside areas of minority concentration.

There is significant integration of assisted housing projects constructed or rehabilitated in the past ten years relative to the racial mix of the eligible population.

There are racially integrated neighborhoods in the locality.

Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentrations.

Minority families have benefited from local activities, e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisition of units for use as assisted housing units) undertaken to expand choice for minority households outside of areas of minority concentration.

A significant proportion of minority households have been successful in finding units in the non-minority areas under the Section 8 certificate and voucher programs.

Comparable housing opportunities have been made in areas outside of minority concentration by other programs.

The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions, i.e., redevelopment activities, economic development.

The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods, consisting largely of unassisted, standard housing of similar market rentals.

Except for new construction housing designated for elderly persons, travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

Rehabilitation Standards, existing housing

To qualify for rehabilitation under part 983, the existing structure must meet site and neighborhood standards outlined below, and meet minimum expenditure of $1,000 per assisted unit. The inclusion of the prorated cost of common improvements shall be considered in the costs of the individual units. The minimum cost shall include the unit's prorated share of work to be accomplished on common areas or systems.

Findings on Rehabilitation

The rehabilitation must be conducted in order to:

Upgrade the property to decent, safe, and sanitary condition to comply with the housing quality standards, or other standards as approved by HUD, from a condition below those standards.

Meet the $1,000 minimum rehabilitation per unit criteria.

Repair or replace major building systems or components in danger of failure within two years from the date of the initial HA inspection;

Convert or merge units to provide housing for large families; or

For up to seven percent of the units to be project based, accessibility improvements to the property necessary to meet the requirements of Section 504 of the Rehabilitation Act or 1973 and the Fair Housing Amendments Act of 1988.

Rehabilitation Site Standards

With the exception of HA owned or controlled projects, which will be reviewed by HUD, the HA approves the sites for rental rehabilitation. The site for rehabilitation must meet the following site and neighborhood standards, and comply with all standards outlined in 982.401. The site must be:

Adequate in size, exposure and contour to accommodate the number and types of units to be rehabilitated.

The site must be served by adequate utilities and streets must be available to service the site. An on-site private disposal system and private sanitary water supply for the site, approved in accordance with law, is considered adequate utilities.

The site must further and facilitate full compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, E.O. 11063, and HUD regulations.

The site must promote greater choice of housing opportunities and avoid undue concentration of assisted person in areas containing a high proportion of low-income persons.

The site must be accessible to social, recreational, educational, commercial and health facilities and services, and other municipal facilities and services which are equivalent to these typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

Be located so that travel time and cost by public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. Housing for the elderly must not be totally isolated from employment opportunities; therefore HUD does not interpret this requirement so rigidly for elderly housing.

H. SELECTION OF OWNER PARTICIPANTS

This criteria is not applicable to the attachment of project based Section 8 to existing housing, where 25% or less of the units in a building will be assisted. For selection of existing units where less than 25% of a building is to be project based, the units may be selected based upon first come first served, or time and date of submission of request to project base units. The advertisement criteria still exists for these units, as well as the 20% poverty level criteria for a census tract, in which a property may be located.

Advertise for Owner Participants

Each year over the five year targeted period to project base the amount of Section 8 to be project based, the Housing Authority will advertise in the Salinas Californian and the Monterey Herald newspapers that the HA will accept applications for project basing under Section 983, for specific development or rehabilitation projects. The advertisement will be submitted to HUD for approval prior to the initiation of the advertisement. For project basing of Section 8 **for existing units, where 25% or less of a** building will be assisted, a separate advertisement will be published, notifying owners of the date and time of final selection, and that the units must meet Housing Quality Standards, and require less than $1,000 to comply with the HQS.

The Advertisement samples for each ***model of project based assistance are contained in Appendix 2.***

Pursuant to regulations, all advertisements shall be:

Published once per week for three consecutive weeks;

Specify an application deadline at least 30 days after the date of advertisement is last published;

Specify the number of units the HA estimates for assistance under the funding the HA is making available for the Project Basing Plan;

Specify that the only applications submitted in response to the advertisement will be considered.

In all cases (i.e., existing housing, new construction, and rehabilitation) a Notice to the project owner that the property must meet Housing Quality Standards, the Lead Based Paint Inspection, and tenant section must be in accordance with the Housing Authority referrals from the merged waiting list, and the owner must confirm to all Fair Housing Laws. For Rehabilitation and New Construction an Environmental analysis pursuant to 24 CFR part 58 must occur. **For New construction or Rehabilitation of more than 9 assisted units the owner must comply with Davis Bacon Labor Standards.**

Owner Application

Unit selection policy requires the owner to submit the following:

1. Project description which includes the overall number of units in each building in the project; the number of units the owner wishes to project base, number of units by size, unit plans, and a listing of the amenities; [E, NC, RC]**

2. A description of the property as is and a description of the proposed rehabilitation, and an estimated date of completion; [RC]

3. Evidence of site control; [NC, RC]

4. New construction site description; [NC]

5. Evidence of zoning compliance; [NC, RC]

6. A statement of whether or not the units are in a census tract with poverty rates of less than 20 percent; [E, NC, RC]

7. Proposed contract rent and an indication of what utilities and services are included in that rent; [E, NC, RC]

8. Projected utility costs; [E, NC, RC]

9. The number of units that will be vacant at the time of HAP; [E, RC]

10. Certification that there will be no displacement; [see 983.51(c)(5)] [E, RC]

11. Whether the development would house the Elderly, the Disabled; [E, NC, RC]

12. A description of support services available to families who will live in the development if applicable; [E, NC, RC]

13. Participant identification including owner, developer, builder, architect, management agent, other participants, and other parties having a substantial financial interest in the AHAP or HAP; [NC, RC]

14. Participant identification including owner, management agent, other participants, and other parties having a substantial financial interest in the HAP; [E]

15. Qualifications and experience of the principal participants; [NC, RC]

16. Disclosure of possible conflict of interest; [E, NC, RC]

17. Previous Participation Certifications; [NC, RC]

18. Project management plan; [NC, RC]

19. Evidence of financing; [NC, RC]

20. Disclosure of other government assistance; [E, NC, RC] and

21. Specify what local objectives as detailed in the HA Plan the project meets. [E, NC, RC]

** Existing units = E

New Construction = NC

Rehabilitation Construction = RC

Incomplete Owner Applications

Incomplete owner applications will be returned to the owner with an explanation of deficiencies noted.

An application will be considered to be incomplete if, for rehabilitation the $1,000 per unit threshold is not met.

If after return to the owner, there is still an available increment of Section 8 to project base, another screening will be held and the incomplete applications will be invited to participate in the screening.

Tied Scores- In the event there are tied scores, the project selection will be based upon project feasibility and timeliness to implement. The tied projects will be invited to submit additional data to allow the HA to determine additional points for a project which may be more timely implemented than one which may take longer to implement.

Applications that cannot be fully funded

If the HA determines that there is an insufficient allocation left to fully project base a project, the owner will be notified of the amount left to project base, and if the unit count is sufficient, and the owner agrees, the agency will project base that amount left. In the event the owner is not able to agree to reduce the number of units to project base, the left over increment will be allocated for the next year's project basing selection.

Other Site Selection

Existing Housing where less than 25% of the units in a building will be Project Based

Project description including a site map, with units to be project based depicted.

Statement of whether the units are located in a census tract of less than *20% poverty rate, -to be verified by HA staff.*

Proposed contract rent and statement of utilities to be included in the rent.

Projected utility costs for the units to be Project Based;

The projected number of units projected to be vacant at the time the owner will sign the HAP contract;

Certification that there will be no displacement of tenants;

If project serves elderly or disabled tenants, identification of any supportive services available to the tenants;

Participant identification including the owner, management agent and other participants or parties having substantial financial interest in the property;

Disclosure of any possible conflict of interest;

Disclosure of all other governmental assistance assigned to the property.

I. EXISTING UNITS FOR ELDERLY AND DISABLED WHERE MORE THAN 25% OF UNITS IN A BUILDING WILL BE PROJECT BASED

Future guidance to come from HUD

J. REHABILITATION OR NEW CONSTRUCTION ASSISTED WITH PROJECT BASED SECTION 8

HUD Mandatory factors:

Site- Submittal of Evidence of Site Control**.** For new construction the identification and description of the proposed site, site plan and description of the neighborhood, utilizing census data. For new construction HUD approves all sites pursuant to the site selection criteria outlined in IV, 1.

For rehabilitation a discussion of the surrounding site, existing conditions and location within a redevelopment area.

Evidence that the proposed new construction or rehabilitation is permitted by current zoning or ordinances or regulation or evidence to indicate that the needed rezoning is likely and will not delay the project.

Flood Zone Certifications: For both new construction and rehabilitation the HA will determine if the site is located within a flood zone. The project owner shall submit a certification of the location of the project from the local building or Planning Department that identifies the FEMA Flood Map and Zone of the project location.

If in a flood zone area the owner shall submit a flood elevation certificate or other documentation that specifies construction elevations, or remedies for existing construction.

Design-Includes a description of the housing to be constructed or rehabilitated, including the number of units by size and square footage, lot sizes, bedroom count, bathroom count, sketches of the proposed new construction or rehabilitation, unit plans, listing of amenities and services, and estimate date of completion. For any rehabilitation the description must describe the property as is, and must describe the proposed rehabilitation.

For rehabilitation the work must equal at least $1,000 per unit as outlined in Section 982.8.

For all rehabilitation the owner shall submit work write-ups prepared by an architect or licensed cost estimator, which documents the requirements that the property meets the $1,000 per assisted unit rehabilitation requirement under Section 982.8.

Previous Experience of owner and other participants in the development

Identification of owner and project principals including the names of officers and principal members, shareholders, investors, and other parties having a substantial interest in the property, management of the property, or development of the property.

The owner must certify that all parties are not on the U.S. General Services list of parties excluded from Federal procurement and non-procurement programs. The owner must disclose any possible conflict of interest by any of the parties involved in the project that would potentially be a violation of the Agreement or the HAP contract. Information shall be submitted on the qualifications and experience of the principal participants. Any unknown information concerning any participant who is not known at the time of the owner's submission must be provided to the HA as soon as that participant is known.

Marketing-An overview of the proposed contract rent per unit, including an identification of utility costs, services and equipment are included in the rent and those that are not included in the rent. For any utilities that are not included in the rent, an estimate of the average monthly cost for each unit type for the first year of occupancy, based upon reliable data.

A plan for Affirmatively Marketing the project and conforming to all Fair Housing and Equal Opportunity Laws and Section 504 regulations. The marketing plan must contain all the elements identified in the Housing Authority's Administrative Plan for the Tenant Based Section 8 program.

Management

The owners plan for managing and maintaining the units and operation of the units under the Section 8 program. The HA has developed a format for this submission which is contained in Appendix 2.

Feasibility of the project as a whole and likelihood of financing and marketability

Determination of whether the property is eligible housing under Section 983.7, and meets all the Federal requirements in 983.11 noted below. The HA must determine if the site complies with site and neighborhood standards outlined in 983.6 and noted above.

Financing of the project- if the project is financed or tentatively financed through assistance other than assistance under the U.S. Housing Act of 1937 outlined in Section 983.9. The owner shall submit evidence of financing or lender interest and the proposed terms of financing

If the project is rehabilitation of existing housing, the Housing Authority must determine if the existing tenants are low income. If the existing tenants are not low income the HA may not enter into a contract for the unit. The project owner should submit at the time of application all data regarding the income sources, family size, and other information as defined by the HA to determine if families occupying units are low-income in accordance with Section 8 Program Regulations.

The project must address any required relocation issues. It is strongly advised that all projects avoid relocation, due to the extremely time consuming and costly processed involved. All Relocation Plans shall comply with The Uniform Relocation Act.

The Owner must submit a Relocation Plan if persons, families, individuals, businesses and nonprofit organizations that are currently occupying the property on the date of the submission of the application.

The Plan shall estimate of the number of persons that must be displaced, temporarily relocated or moved permanently within the building or complex. The estimated costs of relocation payments, and services, and the sources of funding for the relocation plan. The Relocation Plan must identify the entity that will conduct the relocation process and experience in conducting such a process.

The ranking scale for the above Mandatory Factors is contained in Appendix 3.

Other HA factors which further local objectives: the local objective criteria will allow additional points to be awarded to projects which exemplify objectives which further the goals of the local Consolidated Plans and Housing Authority Annual Plan, outlined below and are contained in Appendix 3 with specific point ratings:

Developments that integrate welfare to work or other self-sufficiency components into the rental housing, services shall be delivered through community learning centers or services coordinators.

Housing which contains supportive services for residents designed to assist residents to become self-sufficient.

This includes the provision of case management or referral to services to maximize self-sufficiency to the greatest extent possible

Developments which contain three or more bedroom units, designed for large families. These developments should be near community amenities such as parks, playgrounds, or schools.

For Rehabilitation Projects:

After selection of the applications for Project Based Section 8 and prior to initiation of an Agreement and HAP contract, the Housing Authority must:

The HA shall determine the projects which potentially will be project based and prior to execution of an agreement with the owner, the HA must determine that the proposed initial gross rents are within the fair market rent limitations published in the Federal Register

The HA must conduct an inspection to determine that rehabilitation has not begun and that the property meets the $1,000 per assisted unit rehabilitation requirement under the regulations at 982.8.

The owner must prepare work write-ups and, where determined necessary by the HA, specifications and plans. The HA has the flexibility to determine the appropriate documentation to be submitted by the owner based on the nature of the identified rehabilitation. Work write-ups must address the specific work items identified by the HA under Section 983.52, and other local standards for Housing Rehabilitation pursuant to the Uniform Building Code.

If the property to be rehabilitated meets the $1,000 limit requirement the HA must review the work write up and determine that the specific work items are needed to bring each unit to be assisted up to the HQS, or standards established under the Uniform Building Code if required by the local building inspector.

The HA must determine if any other repairs are necessary to meet the $1,000 per assisted unit rehabilitation requirement, and in the case of projects with five or more units to be project based under the rental rehabilitation, any items necessary to meet Section 504 requirements.

Prior to selection of the units, the HA must consider if the housing is eligible housing whether the units meet all other Federal requirements, and that the site and neighborhood standards are met.

The HA must determine the source of funding for the Rehabilitation and that it is not assistance under the U.S. Housing Act of 1937, i.e., public housing funds or Comprehensive Modernization Grant funds.

The PH must determine the number of current tenants that are low-income families:

The HA may not select units for project-based assistance it the unit is occupied by persons who are not eligible for participation in the Section 8 program.

Before the HA selects a specific unit to which assistance is to be attached the HA must determine if the unit is occupied, and if the unit's occupants are eligible for assistance.

If an eligible family occupies the unit including a single person, and the HA selects the unit for a contract with the owner, the family must be allowed the opportunity to lease the unit or another approximately sized, project based unit in the project without requiring the family to be placed on the waiting list.

The HA may not select a unit, or enter into an Agreement for a unit, if persons not eligible for participation in the program occupy the unit.

Under the project-based program single non-disabled persons are eligible under Section 812.3(b)(1), consistent with other requirements to permit occupancy of the project by single persons residing in the project at the time of conversion to project based assistance to prevent displacement.

All existing tenants are eligible for Relocation or Displacement payments under the Relocation Plan, if they are required to move to accommodate rehabilitation.

Prior to execution of an Agreement, the HA must contract with a State certified general appraiser and establish rents in accordance with Section 983.202. If the project is owned or substantially controlled by a HA, then the HA must seek and obtain the HUD determined initial contract rents, obtain subsidy layering contract rent reviews from HUD or a Housing Credit Agency, and obtain environmental clearance in accordance with Section 983.11.

Prior to execution of an Agreement, the HA must submit a certification to the HUD field office stating that the unit or units were selected in accordance with the HA approved unit selection policy and the HA must receive approval from the HUD field office to execute an Agreement pursuant to the reviews required in Section 983.53.

For all New Construction applications to project base Section 8

Prior to selection of units or execution of an Agreement, the application shall be reviewed for consistency with the selection criteria outlined above. The following must be performed:

The HA must determine that the construction work has not begun, and a site visit must occur.

The HA must determine that the proposed initial gross rents are within the rent reasonable criteria for rents.

The rents shall be established as outlined in 9 below.

The HA must consider whether the property is eligible housing within the meaning of Section 983.7.

Subsidy laying contract rent reviews shall be conducted.

All Federal requirements outlined in Section 983.11 are met.

The site and neighborhood standards are met.

<u>The HUD field office must review all owner applications for new construction</u>, which shall be submitted to HUD by the HA to determine compliance with requirements concerning the site and neighborhood standards.

The project will be constructed with other than assistance under the U.S. Housing Act of 1937.

In projects with four or more units, if any work items are required to meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Amendments Act of 1988 will be completed.

Other requirements under Regulations to project base new construction

Submission of Working Drawings- before an Agreement is executed for any new construction units, the owner must submit the design architect's certification that the proposed new

construction reflected in the working drawings and specifications complies with housing quality standards, local codes and ordinances, and zoning requirements.

Prior to the execution of an Agreement, for new construction

The HA sets the rents for new construction. For HA owned or controlled units the HA must contract with a State certified general appraiser and establish rents in accordance with Section 983.202, or seek and obtain the HUD determined Initial Contract Rents for any HA owned or controlled units or projects financed with a HUD insured or co-insured multifamily mortgage.

For units owned or controlled by a HA, HUD or a Housing Credit Agency conducts the subsidy layering contract review; the HA must seek and obtain environmental clearance in accordance with Section 983.11; and receive approval from the HUD field office to execute an Agreement pursuant to the reviews required in Section 983.56.

If the HA administering the ACC, or an entity substantially controlled by the HA administering the Section 8 ACC, has submitted an application to project base Section 8 under new construction, the HA must submit to the HUD field office, all owner applications in response to the advertisement. The HUD field office will select the owner applications to be funded, from the applications reviewed in response to the HA advertisement.

If there are no HA owned or controlled applications for project based Section 8, the HA shall submit to the HUD field office for completion of the site and neighborhood review on those applications which were determined by the HA to be eligible for further processing pursuant to “a” above. The HA must submit a certification to the HUD field office stating that the unit or units were selected in accordance with the HA’s approved unit selection policy.

The HA’s submission must not exceed the number of uncommitted units for which the HA is authorized to project base Section 8 assistance in connection with new construction. If the number of units contained in the applications that the HA has determined to be eligible for further processing exceeds the number of units for which the HA is authorized to project base, the HA may submit only the top ranked applications.

The HUD field office may terminate an Agreement or the HAP Contract upon at least 30 days written notice, to the owner by the HUD field office, if the HUD field office determined at any time that the units were not selected in accordance with the HA’s approved unit selection policy or that the units did not initially meet the HUD eligibility requirements.

The project owner must be advised of other Federal Requirements for rental rehabilitation or new construction which includes the following:

Equal opportunity and related requirements- the project based program is subject to compliance with the Equal Opportunity requirements specified in 982.53 including Section 504 and the Fair Housing Amendments of 1988 at 24 CFR part 100.

Environmental Requirements- all new construction and rehabilitation for project-based assistance are subject to the HUD environmental regulations outlined at 24 CFR part

58. The HA may not attach any assistance to units unless, prior to the entering into an Agreement, the following must also occur:

The unit of local government within which the project is located which has land use responsibility, or as determined by HUD, the County of State has completed the environmental review required by 24 CFR part 58 and provided to the HA for submission to HUD, the completed request for release of funds and certifications,

HUD has approved the request for release of funding, pursuant to part 58 regulations.

Other Federal Requirements-The following must also be met, if applicable and the HA shall determine if applicable and advise the project owner of requirements.

The Clean Air Act and the Federal Water Pollution Control Act

The Flood Disaster Protection Act of 1973

Section 3 of the Housing and Urban Development Act of 1968

Executive Order 11246, Equal Employment Opportunity for all construction contracts over $10,000.

Executive Order 11625, Prescribing Additional Arrangements for Development and Coordinating a National Program for Minority Business Enterprises

Executive Order 12432, Minority Business Enterprise Development and 12138, creating a National Women's Business Enterprise Policy

Payment of not less than the wages prevailing in the locality as determined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the construction or rehabilitation of the project under an Agreement covering nine or more assisted units, and compliance with the Contract Work Hours, and Safety Standards Act, Department of Labor regulations at 29CFR part 5, and other Federal laws and regulations relating to labor standards applicable to such an Agreement for project based assistance to rehabilitate or construct.

The Provisions of part 24 relating to the employment, engagement of services, awarding contracts, or funding of any contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

K. AGREEMENT FOR NEW CONSTRUCTION AND REHABILITATION

After all selection criteria and review requirements are met, the HA shall enter into an Agreement with the project owner on a form proscribed by HUD for project based Section 8 assistance.

The Agreement must be executed prior to any new construction or rehabilitation of units.

Under the Agreement the owner agrees to construct the units in accordance with the HA approved working drawings and specifications. In the case of rental rehabilitation, to rehabilitate the units in accordance with the HA approved work write-ups.

The Agreement must list the initial contract rents that will apply to the units after they are constructed or rehabilitated.

The amounts that are the contract rents are listed in the Agreement and must be the initial contract rents upon execution of the HAP contract.

The initial contract rents may only be increased if:

The project is financed by a HUD insured or coinsured multifamily mortgage;

The initial contract rents listed in the Agreement were based on the amount determined by HUD to be necessary to amortize the insured or co-insured mortgage; and

The HUD field office approves a cost increase prior to closing. In such instance, the HUD field office may re-determine the initial contract rents.

L. OWNER RESPONSIBILITIES DURING CONSTRUCTION OR REHABILITATION (not applicable to existing housing not having rehabilitation)

The owner is responsible for selection of a competent contractor to undertake the rehabilitation or new construction.

The owner may not award contracts, or otherwise engage the services of, or fund any contractor, or subcontractor, to perform any work, that fails to provide a certification that neither it or its principals is presently debarred, suspended, or placed in ineligibility status under 24CFR part 24, or is on the list of debarred list of contractors or ineligible, pursuant to 24 CFR part 24. The HA must promote opportunities for minority contractors to participate in the program.

After the Agreement has been executed the owner must promptly proceed with the construction or rehabilitation work as outlined in the Agreement. In the event the work is not timely commenced, diligently continued, or completed, the HA may terminate the Agreement or take appropriate action.

Prior to any changes the Owner must obtain HA approval if the work deviates from the original Agreement or that would alter the design or the quality of the required new construction or rehabilitation.

The HA may disapprove any changes requested by the owner.

The HA may require the owner to remedy any deficiencies, prior to, and as a condition for, acceptance of the units.

If the owner makes any changes without prior HA approval, the HA may lower the initial contract rents in an amount determined by the HA (or in the case of HA owned or controlled units, HUD may lower the rents), and may require the owner to remedy any deficiencies, prior to, and as a condition of acceptance of the units for project basing.

When a HUD insured or HUD co-insured multifamily mortgage is utilized to finance new construction or rehabilitation, of units which will be project based, the HUD field office may lower the initial contract rents to reflect any reduction in the amount necessary to amortize the insured or co-insured mortgage.

The Initial contract rents must not be increased, due to any change from the work specified in the Agreement as originally executed.

At completion of the work, the owner must notify the HA when the work is completed and submit to the HA the evidence of completion. Evidence of completion is submittal of a certificate of occupancy issued by the building official or other approval as required by the locality.

The owner must certify that the work has been completed in accordance with the requirements of the Agreement and that:

There are not defects or deficiencies in the work with the exception of minor items that are incomplete due to weather conditions and do not preclude or affect occupancy;

The units have been constructed or rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations. The appropriate offices may modify or waive any of the foregoing.

That for any units built prior to 1978, the units are in compliance with the Lead based paint requirements.

That the owner has complied with any applicable labor standards requirements in the Agreement.

On rehabilitation projects for which a HUD field office construction inspection is not required during construction, a certification from the owner which states that the units have been rehabilitated in accordance with the certified working drawings and specifications, housing quality standards, local codes and ordinances, and zoning requirements.

At least 60 days prior to the scheduled completion of the new construction or rehabilitation, the owner must notify the HA of any units expected to be vacant on the anticipated effective date of the HAP contract.

The HA must refer to the owner, appropriate sized families from the waiting list to the project owner for approval as a tenant.

M. HA RESPONSIBILITIES DURING CONSTRUCTION OR REHABILITATION

The HA must inspect during the construction or rehabilitation to ensure that the work is proceeding on schedule and is being accomplished in accordance with the terms of the Agreement.

The purpose of the inspection is to ensure that the work meets the types of materials specified in the work write-ups or working drawings and specifications, and meets typical levels of workmanship in the area.

After completion of construction the HA must review the evidence of completion to determine if the project is in compliance with the regulations outlined above and in 983.104.

The HA must inspect the units to be assisted and determine that the units have been completed in accordance with the Agreement.

The HA must inspect the units to assure that they are in compliance with Housing Quality Standards (HQS) If the HA final inspection of the units reveals any defects or deficiencies; the inspector must report these in detail to the owner.

If there are any delayed items for completion which are minor in nature, or that are incomplete due to weather conditions, and that do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the HA may accept the units.

The HA must require the owner to deposit into an escrow account with the HA, funds sufficient to ensure completion of the delayed work items.

The HA and the owner must execute a written Agreement specifying the schedule for completion of the delayed items.

If the items are not completed within an agreed upon time period, the HA may terminate the HAP contract or exercise other rights under the HAP Contract.

If other deficiencies exist the HA must determine whether the deficiencies are correctable, and to the extent that they are correctable, and if an extension of time is warranted.

Additionally, HUD must determine if the contract rents should be reduced.

If the HA determines the deficiencies are so extensive, and the units may not be accepted, the owner must be notified with a statement of the reasons for non-acceptance.

If the HA finds from the review of the Agreement and the inspection that the units have been completed in accordance with the Agreement, the HA must accept the units.

The HA must execute the HAP contract if the HA accepts the units.

The effective date of the HAP contract shall not be earlier than the date of the HA inspection and acceptance of the units. After commencement of the HAP contract, the HA must make monthly housing assistance payments for each unit that is under lease by a family.

N. OPERATIONS PLANS

The HA will utilize a merged list for project based Section 8 rental assistance.

The HA will select families based upon time and date of application.

The HA will select families from the waiting list, provide housing information to families selected, and refer them to the project owner.

Other factors in Project Based Section 8- the HA may in selecting a family for a particular unit, match other characteristics of the applicant family with the type of unit available, such as the number of bedrooms.

Admission to the project-based voucher program is subject to the same statutory income-targeting requirement as the tenant-based program (i.e., 75% of all new admission must be extremely low-income families).

The HA may place applicants which are referred by owners on the HA waiting list in accordance with the HA local waiting list policies and selection preferences that are consistent with the selection preferences in the HA Plan.

Except for special admissions and admissions pursuant to G of this section, participants must be selected from the HA waiting list. The HA will select participants from the waiting list in accordance with the admission policies of the HA Administrative Plan.

O. HA DETERMINATION OF ELIGIBILITY OF IN-PLACE FAMILIES

Before the HA selects a specific unit to which assistance is to be attached, the HA will determine if the unit is occupied, and if occupied, whether the unit's occupants are an eligible family (including a singe person) and if eligible the HA selects the unit, the family must be afforded the opportunity to lease that unit or another appropriately sized, project based assisted unit in the project, without requiring the family to be placed on the waiting list. An HA shall not select a unit, enter into an Agreement or HAP contract, if the unit is occupied by persons who are not income eligible for participation in the program.

P. FILLING VACANT UNITS

When the owner notifies the HA of vacancies in the units to which assistance is attached, the HA will refer to the owner one or more families of the appropriate size on its waiting list. A family may refuse to lease a unit assisted by project-based assistance, and still retain its place on the waiting list.

Q. CONTINUED ASSISTANCE FOR VACANT UNITS

The HA may continue providing assistance for a vacant unit, after initial lease-up, for a maximum of 60 days. Such payments may only be made if the vacancy is not the fault of the owner, and the owner takes "every reasonable action" to minimize the extent of the vacancies.

R. RENTS

For units that are not HUD insured or HA owned, the HA approves the initial rent to owners for project based section 8 units, that are not financed with a HUD insured multifamily mortgage, and are not owned by the HA.

For units that are insured or HA owned, or project based units financed with a HUD multifamily mortgage, the initial rents must be approved by HUD.

For rent adjustments for HA owned units, the HA must request HUD approval of the annual adjustment of rents. The HA may not increase the rent at the annual anniversary until and unless HUD has reviewed the HA comparability study, and has approved the rent adjustment.

The initial rent to owner for a unit shall not exceed the reasonable rent as determined by the HA, in accordance with Section 983.256.

Except to correct errors in establishing initial rents, in accordance with HUD requirements, the adjusted rent to the owner must not be less than the initial rent.

The HAP contract will establish initial gross rents that do not exceed the 110% of the established FMR or any HUD approved "exception payment standard".

The HAP contract must provide for adjustment of rent to owner during the contract term, and the adjusted rents must be reasonable in comparison with rents charged for comparable units in the private, unassisted local market.

If a unit is allocated Low Income Tax Credits, and is not in a "qualified census tract" the rent to owner may be established at any level that does not exceed the rent charge for comparable units in the same building that receive the tax credit, but do not have additional rental assistance attached to them. The HA does not need to restrict project based Section 8 rents to the tax credit rents if the tax credit rents are lower than the published FMR.

Owner request for adjustment and compliance with the HAP Contract- At each annual anniversary date of the HAP contract, the HA must adjust the rent to owner in accordance with the following requirements:

The owner must request a rent increase (that includes a comparability study to determine the amount of such increases) by written notice to the HA at least 120 days before the HAP contract anniversary. **The HA format for request for rent increase is attached in Attachment 2.**

The owner must request the increase by the 120-day notice deadline; and during the year before the contract anniversary, the owner must have complied with all of the requirements of the HAP contract, including compliance with HQS for all units under contract.

The adjusted rent to owner must be reasonable in comparison with rents charged for comparable units in the private unassisted local market in accordance with Section 983.256.

Special Adjustments of Rent to Owner-Does not apply to HAP contracts for existing units and HAPs entered into or on or after January 16, 2001.

Rent Reasonableness

The HA may not enter into any agreements to enter into HAP contracts until the HA determines that the initial rent to the owner under the contract is a reasonable rent.

During the term of the HAP contract the HA must continue to re-determine that the rent to owner does not exceed the reasonable rent.

Reasonable rents must be determined by the comparison method, based upon the location, quality, size, unit type, and age of the contract unit, and any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

For tax credit projects which also apply for project based Section 8, and is not in a qualified census tract the rent to owner may be established at any level that does not exceed the rent charge for comparable units in the same building that receive the tax credit but do not have additional rental assistance. The HA does not need to restrict PBA rents to the tax credit rents if the tax credit rents are lower than the published FMR.

For HOME assisted projects which apply for project based Section 8 the low and high home rents may be the FMR.

The HA must also:

Brief the family in accordance with the Section 8 program regulations, and Administrative Plan,

Approve contract rent adjustments, and make rent reasonableness determinations for units that are not HA owned;

Inspect the project before, during and upon completion of new construction or rehabilitation; and

Ensure that the amount of assistance that is attached to units is within the amounts outlined in the ACC, and the payment standard for the area.

The HA must determine Eligibility of the families assisted based upon income and eligibility criteria established by the Section 8 regulations, and One Strike Regulations.

With the exception of special admissions and units which are vacant for more than 30 days, participants must be selected from the HA Project-based *waiting list. Project basing of existing units must have income eligible residents in order to be eligible for project basing.*

When a family is selected to occupy a project-based unit, the HA must provide the family with information concerning the tenant rent and any applicable utility allowances, and a copy of the HUD lead based paint brochure.

The family must also, in either group or individual sessions, be provided with a full explanation of the following:

Family and owner responsibilities under the lease and HAP contract;

Information on Federal, State and local equal opportunity laws;

The fact that the subsidy is tied to the unit and that the family must occupy a unit constructed or rehabilitated under the program, and that a family that moves from the unit does not have any right to continued assistance;

The likelihood of the family receiving a voucher after the HAP contract expires on the unit;

The family's options under the program, if the family is required to move because of a change in family size or composition;

Information on the HA procedures for conducting information hearings for participants, including a description of the circumstances in which the HA is required to provide the opportunity for an informal hearing, and of the procedures for requesting a hearing.

S. CONTINUED ASSISTANCE FOR A FAMILY AFTER TERMINATION OF A LEASE OR WHEN HAP CONTRACT IS TERMINATED

A family may choose to move out of a PBA unit with continued assistance at any time after 12 month.. The HA must offer the family available tenant based assistance either as a voucher or a form of assistance that is comparable to the voucher program, that is defined in HUD regulations. *If there are no vouchers available, the HA must give priority for next available voucher (except for special purpose vouchers).*

Continued Assistance for a Family when the HAP Contract is terminated:

If the HAP contract with the owner expires, the HA does not renew the HAP contract, or the HA terminates the assistance to the owner the HA must:

The HA must issue the assisted family in occupancy of a unit a voucher under the HA voucher program, unless the HA has determined that it does not have sufficient funding for continued assistance for the family, or unless the HA denies issuance of a voucher in accordance with 982.552.

If the unit is not occupied by an assisted family, then the available funds under the ACC that were previously committed for the support of the project based assistance for the unit, shall be used for the HA regular voucher program.

T. HA INSPECTION OF UNITS AND HA REEXAMINATION OF FAMILY INCOME AND COMPOSITION

PBA units must meet HQS before the effective date of the HAP contract.

In addition to the inspections that are required prior to the execution of the HAP contract, the HA must only inspect annually a representative sample of units in a project/building and at such other times as may be necessary to assure the owner is meeting the obligations to maintain the unit in decent, safe and sanitary conditions and to provide the agreed upon utilities and other services.

The HA must take into consideration, complaints and any other information coming to its attention when scheduling inspections.

For any units found during annual inspection, to be not decent, safe and sanitary, upon notification to the owner by the HA, that the units under the HAP contract are not being maintained.

If the owner fails to take corrective action within the time prescribed in the notice, the HA may exercise any of the rights or remedies under the HAP contract, including abatement of housing assistance payments, even if the family continues in occupancy; termination of the HAP contract on the affected unit or units, and termination of assistance to the family in accordance with Section 8 program regulations.

Enforcement of HQS- at 24 CFR part 982 and 983 does not create any right of the family or any party other than HUD or the HA to require enforcement of the HQS requirement by HUD or the HA, or to assert any claim against HUD or the HA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

The HA must re-examine the income and family composition of all families at least once every 12 months.

After consulting with the family and verifying the family's information, the HA must make appropriate adjustments to the total tenant payment in accordance with the Section 8 program regulations**.**

The HA must make a determination whether the family's unit size is still appropriate. The HA must adjust tenant rent, and the housing assistance payment to reflect any change in total tenant payment, if necessary.

If the HA determines that a unit is not decent, safe and sanitary due to an increase in the family size that causes the unit to be overcrowded, or that a contract unit is larger than appropriate for the size of the family that occupies the unit under the HA subsidy standards, housing assistance payments with respect to the unit may not be terminated for this reason.

The owner must offer the family a suitable alternative unit if one is available and the family will be required to move.

If the owner does not have available a suitable size unit within the family's ability to pay the rent, the HA, if it has sufficient funding, must offer Section 8 tenant based assistance to the family or otherwise assist the family in locating other standard housing in the HA's jurisdiction, and require the family to move to such a unit as soon as possible.

The family must not be forced to move, nor shall housing assistance payments under the contract be terminated for the above reasons occur, unless the family rejects, without good reason, the offer of a unit which the HA judges to be acceptable.

U. OWNERS RESPONSIBILITIES

The owner is responsible for performing all of the owner responsibilities under the Agreement and the HAP contract.

The owner must rent all vacant units to eligible families referred by the HA from its waiting list. If the HA does not refer a sufficient number of interested applicants on the HA waiting list to the owner within 30 days of the owner's notification to the HA of a vacancy, the owner may

advertise or solicit for applications from eligible very low-income families. The owner must refer these families to the HA for eligibility determination under the Section regulations.

The owner must provide all the services, maintenance and utilities as agreed under the HAP contract, subject to abatement of housing assistance payments or other applicable remedies if the owner fails to meet these obligations.

The owner is responsible for screening and selection of tenants. The owner must adopt written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families, and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

The owner when offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, may require the applicant to agree, and may incorporate this agreement into the Lease, to move to a non-accessible unit when one is available.

The owner must promptly notify in writing any rejected applicant of the grounds for any rejection of the applicant referred by the HA.

If the owner rejects an applicant family who believes that the rejection is the result of unlawful discrimination, the family may request the assistance of the HA in resolution of the issue. The family is also entitled to file a discrimination complaint with the HUD field office or exercise other rights provided by law.

The Lease between the family and the owner must be in accordance with Section 983.206 and any other applicable HUD regulations. The lease must include all requirements of HUD and must not include any provisions prohibited by HUD.

V. LEASE REQUIREMENTS

The lease must be in accordance with Section 983.206.

The amount of rent payable by the Family to the owner is the tenant rent.

The term of the lease including any new lease or lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the HAP contract if the term of the HAP contract remaining is less than one year.

The lease may contain a provision permitting the family to terminate the lease on not more than 60 days advance written notice to the owner. In the case of a lease term for more than one year, the lease must contain a provision permitting the family to terminate the lease on such notice after the first year of the term.

The owner may offer the family a new lease for execution by the family for a term beginning at any time after the first year of the term of the lease.

The owner must give the family written notice of the offer at least 60 days before the proposed commencement date of the new lease term. The offer may specify a reasonable time for acceptance by the family.

Failure by the family to accept the offer of a new lease in accordance with this paragraph shall be "other good cause" for termination of tenancy.

W. ACCESSIBLE UNITS LEASED TO NON-DISABLED FAMILIES

When offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, the owner may require the applicant to agree to move to a non-accessible unit if one is available so that a tenant who requires an accessible unit may be accommodated.

The owner may incorporate this agreement into the lease, and may require the tenant pursuant to the lease to move to a non-accessible unit, if and when one is available.

In the selection of a family for a unit that has special accessibility features, the responsible entity must give preference to families who include persons with disabilities and can benefit from those features of the unit.

X. TERMINATION OF TENANCY AND THE FILLING OF VACANT UNITS

During the term of the lease agreement, the owner may not terminate the tenancy except on the following grounds:

Serious violation including but not limited to failure to pay rent or other amounts due to the owner under the lease

Repeated violation of the terms and conditions of the lease;

Violation of Federal, State and local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or

Other good cause- includes, but is not limited to the following:

> Failure by the family to accept the offer of a new lease or revision; a family history of disturbance of neighbors or destruction or property, or of living or housekeeping habits resulting in damage to the unit or premises

Filling Vacant Units

The owner will notify the HA of vacancies of units under contract for Section 8 assistance.

The HA will refer to the owner one or more families of the appropriate size *and income limit in order to meet the income targeting requirement of 75% of families admitted to the HA's combined tenant-based and PBA program from* the HA's Countywide Project Based Section 8 waiting list.

A family, who refuses the offer of a unit assisted with Project Based Section 8 assistance, keeps its place on the project-based waiting list.

The project owner shall rent all vacant units under contract to eligible families referred by the HA from its waiting list.

The HA must determine eligibility for participation in accordance with HUD regulations for the Section 8 program.

The unit owner is responsible for screening and selection of tenants, with the exception of one strike screening, which is outlined below.

The owner must adopt written tenant selection procedures, which are consistent with the purpose of improving housing opportunities for extremely low-income and very low-income families.

The selection criteria must be reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

The project owner is required to immediately notify in writing any rejected applicant of the grounds for any rejection to lease a unit.

In the event that the HA does not refer an adequate number of eligible participants on the HA waiting list to the owner within 30 days of the owner's notification of a vacancy, the owner may advertise for or solicit applications from eligible extremely low and very low-income families.

The owner must refer these families to the HA to determine program eligibility.

A family is considered to be a participant family when the family and the owner enter into a lease agreement for a unit assisted with project based Section 8.

In the event an owner rejects an applicant family, who believes that the rejection was the result of unlawful discrimination, the family may request the assistance of the HA in resolving the issue.

The family may file a discrimination complaint with the HUD field office or exercise other rights as provided by law.

Y. OVERVIEW OF APPLICABILITY OF ONE STRIKE PROVISIONS

Part X of 24 CFR Part 5 outlines the requirements of the HA in administering federal assistance and applicability of the One-Strike Screen and Eviction for Drug Abuse and Other Criminal Activity to any projects, which are HUD assisted.

HA's and assisted owners have the tools for adopting and implementing fair, effective, and comprehensive polices for denying admission to applicants who engage in illegal drug use or other criminal activity and for evicting or terminating assistance of persons who engage in such activity.

The 1998 Housing Quality Act broadened the prohibition of drug related criminal activities to include the denial of housing assistance to any sex offender which is subject to a lifetime registration requirement under a State sex offender's registration program.

Also persons are barred who have been convicted of manufacturing or producing met amphetamine. Persons who are fleeing to avoid prosecution or custody or confinement after conviction for a felony are also prohibited from receiving assistance.

The project owner shall request the HA to obtain criminal records and perform determinations for the owner regarding screening applicants, lease enforcement or eviction for developments located in the HA jurisdiction.

The HA shall charge the owner a fee for obtaining the record and performing the screening and evaluation services.

The owner must provide the HA with a consent form signed by the tenant or applicant.

The HA must not give the criminal record, or disclose its content, to the owner.

The HA must use the record to screen the tenant based on the owner's standards for tenant selection.

The records shall be administered pursuant to the HA records management system which ensures that criminal records and records from drug abuse treatment facilities are maintained

confidentially, are not misused or improperly disseminated, and are destroyed within the statutorily prescribed time frames.

Z. FAMILY RESPONSIBILITIES

The family is required to supply any information requested by the HA, or HUD concerning changes in income, family composition, additional adult family members or other necessary information as required by regulation.

Eligibility may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

The HA must verify any change in the family's income or other circumstances that results in an adjustment in the total rental payment, tenant rent, and housing assistance payment.

In the event that the HA receives information concerning a change in the family's circumstances or income between regularly scheduled reexaminations, the HA must consult with the family and may any necessary adjustments that are appropriate in the family's rent or unit size.

The family's eligibility for housing assistance payments continues until the total tenant payment equals the gross rent.

The termination of eligibility at that point shall not affect the family's rights under the lease with the owner, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the HAP contract.

The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information in accordance with HUD regulations for the Section 8 program. All information supplied by the family must be true and complete.

The family must submit required evidence of citizenship or eligible immigration status. Part 5-General HUD Program Requirements and Subpart E apply regarding Restrictions on Assistance to Non-citizens.

The HA must approve the composition of the family residing in the unit.

The family must promptly notice the HA of the birth, adoption or court awarded custody of a child. The family must request HA approval to add any other family member as an occupant of the unit.

The family must notify the HA if any family member no longer resides in the unit.

If the HA has given approval, a foster child or live in-aide may reside in the unit, pursuant to the HA policies outlined in the Administrative Plan.

All One Strike provisions and criminal background checks must be provided prior to assistance of the family. Pursuant to 982.553, the family members may not engage in drug related criminal activity, or violent criminal activity.

Criminal background checks must be conducted for any adult family member added to the lease agreement after the family becomes assisted by the Section 8 project based program.

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

The family may not commit any serious or repeated violation of the lease.

The family must notify the HA and the owner before the family moves out of the unit. If the family terminates the lease on notice to the owner, the family must give the HA a copy of the notice of termination at the same time. Failure to do so is a breach of family obligations under the program.

The family must supply any information or certification requested by the HA to verify that the family is living in the unit, or relating to family absence from the unit, including any HA requested information or certification on the purposes of family absences.

The family must cooperate with the HA for this purpose.

The family must promptly notify the HA of the absence from the unit.

The family must use the assisted unit for resident by the family. The unit must be the only residence of the family.

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

The family must not sublease the unit; the family must not assign the lease or transfer the unit.

The family must promptly give the HA a copy of any owner eviction notice.

The family is responsible for any HQS breach caused by the family as described in 24 CFR part 982.404.

The family must allow the HA to inspect the unit at reasonable times and after reasonable notice.

Chapter 21

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HACM policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the HACM will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

21-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

HACM POLICY
The HACM will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HACM is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HACM 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].

21-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HACM policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

HACM POLICY
Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACM policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

21-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HACM may not use voucher program funds to cover relocation costs, except that HACM may use the administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the HACM to ensure the owner complies with these requirements.

21-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The HACM must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the HACM must comply with the HACM Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

21-II.A. OVERVIEW

The HACM must describe the procedures for owner submission of PBV proposals and for HACM selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the HACM must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

21-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The HACM must select PBV proposals in accordance with the selection procedures in the HACM administrative plan. The HACM must select PBV proposals by either of the following two methods.

- HACM request for PBV Proposals. The HACM may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HACM request. The HACM may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The HACM may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

HACM's procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the HACM. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the HACM request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HACM POLICY

HACM Request for Proposals for Rehabilitated and Newly Constructed Units

The HACM will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the Salinas Californian newspaper.

In addition, the HACM will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HACM will publish its advertisement in the Salinas Californian Newspaper for one day. The advertisement will specify the number of units the HACM estimates that it will be able to assist under the funding the HACM is making available. Proposals will be due in the HACM office by close of business 30 calendar days from the date of the publication.

In order for the proposal to be considered, the owner must submit the proposal to the HACM by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HACM will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the HACM goal of deconcentrating poverty and expanding housing and economic opportunities;

In the case of projects for occupancy by the elderly or persons with disabilities, the HACM will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

HACM Requests for Proposals for Existing Housing Units

HACM POLICY

The HACM will advertise its request for proposals (RFP) for existing housing in the Salinas Californian newspaper for one day.

In addition, the HACM will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

Advertisement

The advertisement will specify the number of units the HACM estimates that it will be able to assist under the funding the HACM is making available. Owner proposals will be accepted on a first-come first served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the HACM's goal of deconcentrating poverty and expanding housing and economic opportunities;

HACM Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACM will consider those proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits only during the RFP process.

Proposals will be reviewed on a first-come first-served basis under the RFP process. The HACM will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers the HACM goal of deconcentrating poverty and expanding housing and economic opportunities; and whether the project is consistent with HACM policies and extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

All proposals that have been competively selected under a previous competition and meet the criteria above will be rated prior to other proposals.

In the case of projects for occupancy by the elderly or persons with disabilities, the HACM will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

HACM-owned Units [24 CFR 983.51(e) and 983.59]

A HACM-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HACM-owned units were appropriately selected based on the selection procedures specified in the HACM administrative plan. If the HACM selects a proposal for housing that is owned or controlled by the HACM the HACM must identify the entity that will review the HACM proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of HACM-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the HACM jurisdiction (unless the HACM is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HACM POLICY

The HACM may submit a proposal for project-based housing that is owned or controlled by the HACM. If the proposal for HACM-owned housing is selected, the HACM will use SOLEDAD

HOUSING AUTHORITY OR UNIVERSAL INSPECTIONS INC to conduct the inspections and approve the rents. The HACM has obtained HUD approval of SOLEDAD HOUSING AUTHORITY AND UNIVERSAL INSPECTIONS INC prior to any selection of proposals by HUD.

The HACM may only compensate the independent entity and appraiser from HACM ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HACM may not use other program receipts to compensate the independent entity and appraiser for their services. The HACM, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

HACM Notice of Owner Selection [24 CFR 983.51(d)]

The HACM must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACM POLICY

Within 14 calendar days of the HACM making the selection, the HACM will notify the selected owner in writing of the owner's selection for the PBV program. The HACM will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACM will publish its notice for selection of PBV in the same newspaper of wide circulation the HACM used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HACM will also post the notice of owner selection on its electronic web site.

The HACM will make available to any interested party it's rating and ranking sheets and documents that identify the HACM basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The HACM will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HACM will make these documents available for review at the HACM during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

21-II.C. HOUSING TYPE [24 CFR 983.52]

The HACM may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HACM selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The HACM must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The HACM choice of housing type must be reflected in its solicitation for proposals.

21-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The HACM may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the HACM may not attach or pay PBV assistance for a unit occupied by an owner and the HACM may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

The PHA may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the PHA determination. The PHA may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

HACM POLICY
The HACM will not use high-rise (5 or more stories) elevator projects for families with children.

Subsidized Housing [24 CFR 983.54]

HACM may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a HACM may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HACM in accordance with HUD requirements.

21-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The HACM may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HACM must submit the necessary documentation to HUD for a subsidy layering review. The HACM may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

21-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, the HACM may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families.

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

HACM POLICY
The HACM will not require families living in excepted units to receive supportive services. Therefore, excepted units will be limited to units in single-family buildings and those made available for elderly and/or disabled families.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-building cap of less than 25 percent.

HACM P0LICY
The HACM will not provide assistance for excepted units. Beyond that, the HACM will not impose any further cap on the number of PBV units assisted per building.

21-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The HACM may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the HACM has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the HACM Plan under 24 CFR 903 and the HACM administrative plan.

In addition, prior to selecting a proposal, the HACM must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

HACM POLICY
It is the HACM goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the HACM will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the HACM will grant exceptions to the 20 percent standard where the HACM determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances, will the HACM approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate or forty percent, whichever is lower.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The HACM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the HACM determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of

minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

21-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The HACM activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HACM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACM may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACM, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACM must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HACM must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

21-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

21-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 does not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

21-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

21-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The HACM must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HACM must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the HACM may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The HACM must inspect each contract unit before execution of the HAP contract. The HACM may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the HACM must inspect the unit. The HACM may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the HACM must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the HACM must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The HACM must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACM must take into account complaints and any other information coming to its attention in scheduling inspections.

The HACM must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HACM supervisory quality control HQS inspections, the HACM should include a representative sample of both tenant-based and project-based units.

Inspecting HACM-owned Units [24 CFR 983.103(f)]

In the case of HACM-owned units, the inspections must be performed by an independent agency designated by the HACM and approved by HUD. The independent entity must furnish a copy of each inspection report to the HACM and to the HUD field office where the project is located. The HACM must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the HACM-owner. HUD approved entities to conduct inspections and approve rents set by a state certified appraiser are Soledad Housing Authority and Universal Inspections Inc.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

21-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

21-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the HACM must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HACM agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HACM will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after HACM notice of proposal selection to the selected owner. However, the HACM may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HACM may not enter into the Agreement until the environmental review is completed and the HACM has received environmental approval.

HACM POLICY

The HACM will enter into the Agreement with the owner within 14 calendar days of receiving both environmental approval and notice that subsidy-layering requirements have been met, and before construction or rehabilitation work is started.

21-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relation's laws and regulations. The HACM must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

21-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the HACM in the form and manner required by the HACM:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the HACM's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACM POLICY

The HACM will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by case basis depending on the nature of the PBV project. The HACM will specify any additional documentation requirements in the Agreement to enter into HAP contract.

HACM Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the HACM must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The HACM must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the HACM must not enter into the HAP contract.

If the HACM determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACM must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

21-V.A. OVERVIEW

The HACM must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

21-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The HACM may not enter into a HAP contract until each contract unit has been inspected and the HACM has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the HACM selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HACM has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

HACM POLICY

For existing housing, the HAP contract will be executed within 14 calendar days of the HACM determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 14 calendar days of the HACM determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The PHA enters into a HAP contract with an owner for an initial term of no less than one year and no more than ten years.

HACM POLICY
The term of all HACM PBV HAP contracts will be negotiated with the owner on a case-by case basis for terms of 5 (minimum) to 10 years (maximum).

Within one year before expiration of the HAP contract, the HACM may extend the term of the contract for an additional term of up to five years if the HACM determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

HACM POLICY
When determining whether or not to extend an expiring PBV contract, the HACM will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by HACM [24 CFR 983.205(c)]

The HAP contract must provide that the term of the HACM's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HACM in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the HACM may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the HACM. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

The HACM may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the HACM determines that a contract does not comply with HQS, the HACM may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HACM POLICY

The HACM will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 8-II.G. of the Section 8 HCV Administrative Plan, Enforcing Owner Compliance.

21-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At the HACM's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the HACM must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At the HACM's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the HACM's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HACM POLICY

The HACM will consider adding contract units to the HAP contract at the written request of the owner when the HACM determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty in finding units that meet program requirements.
- Availability of funds.

21-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

21-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HACM, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

21-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the HACM and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACM POLICY
The HACM will identify the need for any special features on a case-by case basis depending on the intended occupancy of the PBV project. The HACM will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

HACM POLICY
The HACM will provide vacancy payments on any units with an AHAP or Contract signed before December 18, 2006. AHAP or Contracts signed after that date will not provide any vacancy payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

21-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

21-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the HACM, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the HACM's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACM POLICY

The HACM will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3 of the Section 8 HCV Administrative Plan.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the HACM is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the HACM's waiting list. Once the family's continued eligibility is determined (the HACM may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the HACM must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

21-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

HACM POLICY

The HACM will establish and manage three separate geographic waiting lists for Salinas, the Monterey Peninsula and South County.

Applications will be accepted for the PBV Program, even when applications for the HCV Program are closed, if waiting lists by bedroom size have been depleted, upon announcement by the HACM.

21-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the HACM's waiting list. The HACM may establish selection criteria or preferences for occupancy of particular PBV units. The HACM may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent (unless HACM is granted a waiver for a lower percentage) of the families admitted to the HACM's tenant-based and project-based voucher programs during the HACM fiscal year from the waiting list must be extremely low-income families. The income-targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HACM must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has buildings with more than 25 percent of the units receiving project-based assistance because those buildings include "excepted units" (units specifically made available for elderly or disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

HACM POLICY
The HACM will provide for all three geographic waiting lists a selection preference for the following:

- Eligible in-place families; (25 points)
- Qualifying families for "excepted units," (elderly / persons with disabilities) (10 points)
- Mobility impaired persons for accessible units (10 points)
- Applicants/participants that have a Housing Choice Voucher (10 points)

21-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The HACM is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;

- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HACM's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the HACM must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the HACM must provide a briefing packet that explains how the HACM determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the HACM must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the HACM must have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The HACM should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

21-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the HACM from the HACM's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the HACM's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the HACM of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HACM must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HACM and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACM POLICY
The owner must notify the HACM in writing (mail, fax, or e-mail) within 5 calendar days of learning about any vacancy or expected vacancy.

The HACM will make every reasonable effort to refer families to the owner within 14 calendar days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

HACM POLICY

If any contract units have been vacant for 120 days, the HACM will give notice to the owner that the HAP contract will be amended to reduce the number of contract units (according to the bedroom size) that have been vacant for this period. The HACM will provide the notice to the owner within 14 days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the HACM's notice.

21-VI.G. TENANT SCREENING [24 CFR 983.255]

HACM Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

HACM POLICY

The HACM will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The HACM must provide the owner with an applicant family's current and prior address (as shown in HACM records) and the name and address (if known by the HACM) of the family's current landlord and any prior landlords.

In addition, the HACM may offer the owner other information the HACM may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The HACM must provide applicant families a description of the HACM policy on providing information to owners, and the HACM must give the same types of information to all owners.

HACM POLICY

The HACM will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HACM will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;

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

PART VII: OCCUPANCY

21-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the HACM, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

21-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

HACM POLICY
The HACM will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the HACM (the names of family members and any HACM-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HACM must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HACM a copy of all changes.

The owner must notify the HACM in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the HACM and in accordance with the terms of the lease relating to its amendment. The HACM must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HACM policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The HACM may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACM POLICY
The HACM will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of al items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance form the tenant. The HACM has no liability or responsibility for payment of any amount owed by the family to the owner.

21-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

HACM POLICY
The HACM will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 30 calendar days of the HACM's determination. The HACM will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the HACM offers the family a tenant-based voucher, the HACM must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HACM).

If the HACM offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the HACM, or both, the HACM must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HACM.

HACM POLICY
When the HACM offers a family another form of assistance that is not tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HACM will terminate the housing assistance payments at the expiration of this 30-day period.

The HACM may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the HACM to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the HACM is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the HACM must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

21-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

The HACM may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building; or
- Specifically made available for elderly or disabled families.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (e.g., due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

HACM POLICY
The HACM will provide PBV assistance for excepted units only for elderly or persons with disabilities.

PART VIII: DETERMINING RENT TO OWNER

21-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial

rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the tem of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

21-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HACM, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

HACM POLICY

Upon written request by the owner, the HACM will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HACM will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HACM may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the HACM determines it is necessary due to HACM budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACM POLICY

An owner's request for a rent increase must be submitted to the HACM 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HACM may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance

with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the HACM to the owner specifying the amount of the redetermined rent. The HACM notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HACM POLICY
The HACM will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-owned Units [24 CFR 983.301(g)]

For HACM-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HACM must use the rent to owner established by the independent entity.

21-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA.

When Rent Reasonable Determinations are required

The HACM must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HACM approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the HACM must consider factors that affect market rent. Such factors include the location, quality, size, type and

age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the HACM. The comparability analysis may be performed by HACM staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-owned Units

For HACM-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for HACM-owned units to the HACM and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HACM may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

21-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, a HACM may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;

- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

21-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the HACM must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the HACM agree on a later date.

Except for discretionary vacancy payments, the HACM may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the HACM is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

21-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HACM determines that the vacancy is the owner's fault.

HACM POLICY

If the HACM determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HACM will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACM will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the HACM, the HAP contract may provide for vacancy payments to the owner. The HACM may only make vacancy payments if:

- The owner gives the HACM prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the HACM to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the HACM and must provide any information or substantiation required by the HACM to determine the amount of any vacancy payment.

HACM POLICY
If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HACM of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 14 calendar days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACM may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 14 calendar days of the HACM's request, no vacancy payments will be made.

AHAPs or Contracts signed after December 18, 2006 will not provide vacancy payments.

21-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HACM in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HACM notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the HACM is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the HACM. The owner must immediately return any excess payment to the tenant.

Tenant and HACM Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the HACM.

Likewise, the HACM is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HACM is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HACM may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the HACM must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The HACM may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HACM chooses to pay the utility supplier directly, the HACM must notify the family of the amount paid to the utility supplier.

HACM POLICY
The HACM will make utility reimbursements to the family.

21-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint

MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative fee reserve (formerly "operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). *The* written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual Income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

"As-paid" States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

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

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

Citizen. *A* citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

***Covered families*.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

***Dependent*.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

***Disability assistance expenses*.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family*.** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See Person with Disabilities.

***Displaced family*.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

***Domicile*.** The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Elderly family. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. *(CFR 5.603)*

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

Family. Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program **(**FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See "Disability Assistance Expense."

HAP contract. Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). *A* State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction. The area in which the PHA has authority under State and local law to administer the program.

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the PHA to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of "cooperative."

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

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

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

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant *(participant family).* A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

Portability. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. *A*ll HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called “tolling”.

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See “Family rent to owner”.

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).