OMB Approval No: 2577-0226
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U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

PHA Plans

Annual Plan for Fiscal Year 2009

Housing Authority of the City of Bremerton

- Standard Performer

05/07/08 BEGIN 45 Day Public Review
06/23/08 END 45 Day Public Review
06/23/08 Regular Board Meeting to Certify Plan
06/27/08 Submit to HUD #1
07/08/08 Certs to HUD
07/22/08 Cert: Drug Free (HUD-50070) to HUD
07/18/08 DUE to HUD
07/28/08 Submit to HUD #2

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 City of Bremerton
PHA Number: WA003
PHA Fiscal Year Beginning: (mm/yyyy) 10/2008

PHA Programs Administered:
☒**Public Housing and Section 8** ☐**Section 8 Only** ☐**Public Housing Only**
Number of public housing units: Number of S8 units: Number of public housing units:
Number of S8 units:

☐**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: 110 Russell Road, Bremerton, WA 98312
☐ PHA development management offices
☒ PHA local offices: Office of the Executive Director, 345 6th Street, Suite 200, Bremerton, WA 98337

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: 110 Russell Road, Bremerton, WA 98312
☐ 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 www.bremertonhousing.org
☒ Other (list below)
Westpark Community Center, 76 Russell Road, Bremerton, WA 98312

PHA Plan Supporting Documents are available for inspection at: (select all that apply)
☒ Main business office of the PHA: 110 Russell Road, Bremerton, WA 98312

☐ PHA development management offices
☒ Other (list below)
Westpark Community Center, 76 Russell Road, Bremerton, WA 98312

[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.

The Board of Commissioners and staff of the Housing Authority of the City of Bremerton (BHA) remain dedicated to leading the community partnership to provide housing opportunities for low-income families, seniors, and people with disabilities.

Over the past year, BHA has focused on providing housing to the senior, elderly, and special needs populations. BHA is proud of its newly opened Bay Vista Commons Development which is a new 72 unit assisted living facility, including a 12 unit section for people with Alzheimer's disease. This project has provided much needed housing to low-income seniors who qualify for Medicaid.

BHA is also making significant strides in moving forward on its $300 million housing redevelopment project of its largest public housing site, Westpark. In April 2008, BHA was awarded 214 tenant protection vouchers to move forward with the first phase of relocation of residents from Westpark.

The existing Westpark Housing Development, consisting of 571units, is the remnant of a larger World War II-era housing project that was built as temporary housing for shipyard workers. BHA's vision is to create an attractive new community with distinctive architecture, plazas, and pedestrian-oriented streets. The Master Plan calls for a new vibrant mixed-use urban community to include 700-800 residential units which includes housing for all income ranges and a mix of rental and owned homes. A newly constructed or revitalized community center and other amenities will be added including some retail and services along with open spaces.

In addition to meeting the community's low-income housing needs, BHA is committed to helping people become self-sufficient. Strong leadership, dedicated staff, and community partnerships work to help adults develop life and job skills, sustain healthy financial management, and support a transition to independence. This commitment is reflected in BHA's successful Keys to a Better Life Program that is focused on providing residents with job-readiness. In addition, BHA will be implementing a Section 8 to Homeownership program beginning this fiscal year.

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: Attachment (1): ACOP, Chapter 12; Attachment (2): Deconcentration Policy

☒ FY 2008 Capital Fund Program Annual Statement:
- Table Library component 7; and
- Attachment (3): Includes FY 2007, 2006, and 2005

☐ 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: Page 51

☒ List of Resident Board Member: Page 51

☒ Community Service Description of Implementation: Attachment (4): Statement; Attachment (5) Admin Plan, Chapter 11

☒ Information on Pet Policy: Attachment (1), ACOP, Chapter 10

☒ Section 8 Homeownership Capacity Statement, if applicable: Attachment (6): Statement; Attachment (5): Admin Plan, Chapter 15

☐ Description of Homeownership Programs, if applicable

Optional Attachments:

☒ PHA Management Organizational Chart Attachment (7): Org Chart

☒ FY 2005 Capital Fund Program 5 Year Action Plan Pages 44 & 45

☐ Public Housing Drug Elimination Program (PHDEP) Plan
☐ Comments of Resident Advisory Board or Boards (must be attached if not included in PHA Plan text) None.
☐ Other (List below, providing each attachment name)

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 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	Annual Plan: Rent Determination

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
	☒ check here if included in the public housing A & O Policy	
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 & 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
X	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grant	Annual Plan: Capital Needs
	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
	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 & Disposition
	Approved or submitted applications for designation of public housing (Designated Housing Plans)	Annual Plan: Designation of Public Housing
	Approved or submitted assessments of reasonable revitalization of public housing and approved or submitted conversion plans prepared pursuant to section 202 of the 1996 HUD Appropriations Act	Annual Plan: Conversion of Public Housing
	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
X	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
X	Most recent self-sufficiency (ED/SS, TOP or ROSS or other	Annual Plan: Community

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
	resident services grant) grant program reports	Service & Self-Sufficiency
	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
	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-ibility	Size	Loca-tion
Income <= 30% of AMI	1,017	N/A	N/A	N/A	N/A	N/A	N/A
Income >30% but <=50% of AMI	1,108	N/A	N/A	N/A	N/A	N/A	N/A
Income >50% but <80% of AMI	2,405	N/A	N/A	N/A	N/A	N/A	N/A
Elderly	389	N/A	N/A	N/A	N/A	N/A	N/A
Families with Disabilities	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Race/Ethnicity	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Race/Ethnicity	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Race/Ethnicity	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Race/Ethnicity	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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:
☒ U.S. Census data: the Comprehensive Housing Affordability Strategy ("CHAS") dataset
☐ American Housing Survey data
Indicate year:
☐ Other housing market study
Indicate year:
☒ Other sources: (list and indicate year of information)
American Fact Finder - 2000 Census Data - Profile of Selected Economic Characteristics

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	609		9%
Extremely low income <=30% AMI	591	97%	
Very low income (>30% but <=50% AMI)	16	3%	
Low income (>50% but <80% AMI)	2	>1%	
Families with children	249	41%	
Elderly families	11	2%	
Families with Disabilities	207	34%	
Race -white	425	70%	
Race -Black	81	13%	
Race- Amer. Indian	25	4%	
Race-Asian	25	4%	
Race-Pacific Islander	2	>1%	
Characteristics by Bedroom Size (Public Housing Only)			
1BR	N/A	N/A	N/A
2 BR	N/A	N/A	N/A

Housing Needs of Families on the Waiting List			
3 BR	N/A	N/A	N/A
4 BR	N/A	N/A	N/A
5 BR	N/A	N/A	N/A
5+ BR	N/A	N/A	N/A

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

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	1096		
Extremely low income <=30% AMI	1071	98%	
Very low income (>30% but <=50% AMI)	25	2%	
Low income (>50% but <80% AMI)	0	0%	
Families with children	365	33%	
Elderly families	37	3%	
Families with Disabilities	403	37%	
Race- White	769	70%	
Race-Black	159	15%	
Race-Amer.Indian	57	5%	
Race-Asian	44	4%	
Race-Pacific Islander	27	2%	
Characteristics by Bedroom Size (Public Housing Only)			
1BR	703	64%	N/A
2 BR	231	21%	N/A
3 BR	145	13%	N/A
4 BR	17	2%	N/A

Housing Needs of Families on the Waiting List			
5 BR	N/A	N/A	N/A
5+ BR	N/A	N/A	N/A

Is the waiting list closed (select one)? ☐ No ☒ Yes
If yes:
How long has it been closed (# of months)? 4 months (closed May 10, 2008)
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)
Provide "Ready to Rent" classes and build rental resumes for public housing residents through the Westpark redevelopment and relocation effort to help relocating families become more successful in the private rental market.

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)

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)

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)

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)
  Develop and maintain a list of properties within the community that offer physical accessibility and sensory disability features.

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)
  Approval of BHA's Demolition/Disposition Plan for Westpark.

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 2005 grants)**		
a) Public Housing Operating Fund	1,300,000	
b) Public Housing Capital Fund	980,000	
c) HOPE VI Revitalization	0	
d) HOPE VI Demolition	0	
e) Annual Contributions for Section 8 Tenant-Based Assistance	5,776,500	
f) Public Housing Drug Elimination Program (including any Technical Assistance funds)	0	
g) Resident Opportunity and Self-Sufficiency Grants	86,900	

Financial Resources: Planned Sources and Uses		
Sources	**Planned $**	**Planned Uses**
h) Community Development Block Grant	0	
i) HOME	0	
Other Federal Grants (list below)		
Disaster Voucher Program	45,400	Katrina-related tenant-based assistance
2. Prior Year Federal Grants (unobligated funds only) (list below)		
Public Housing Capital Fund	260,000	Public Housing operations, capital improvements, safety/security, and relocation support
3. Public Housing Dwelling Rental Income		
Low Income Public Housing	720,000	Public Housing Operations
4. Other income (list below)		
Child and Adult Food Care Program	2,100	Public Housing Operations
4. Non-federal sources (list below)		
2163 County Funds	96,750	Tenant-Based rental assistance for mentally ill released from institutions
Line of Credit	3,000,000	Demolition of Public Housing units, design of replacement housing, civil design
2060 State Funds	64,500	Tenant-based rental assistance for mental health clients
WHCG	5,000	Public Housing Supportive Services
Total resources	**12,337,150**	

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)
☐ When families are within a certain time of being offered a unit: (state time)
☒ Other: (describe)
When families are pulled from the waiting list in anticipation of available units.

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 110 Russell Road, Bremerton, WA 98312
☐ 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**
Not applicable.
1. How many site-based waiting lists will the PHA operate in the coming year?

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?

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)

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)
Families of federally declared disasters who are Section 8 voucher holders or displaced public housing residents in another jurisdiction will receive preference over other waiting list placeholders for public housing.

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.

2 Date and Time

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

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 Families of federally declared disasters who are Section 8 vouchers holders or displaced public housing residents in another jurisdiction will receive preference over other waiting list placeholders for public housing.

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)

- Monthly newsletter for residents
- Informational boards in the administrative offices
- BHA website, www.bremertonhousing.org

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)
Demolition of units with plans for replacement

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: Westpark

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)
Current and previous residence and landlord

(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 *
*The Housing Authority is multi jurisdictional. While one ACC, BHA will maintain a separate wait list for the Mason county area so that BHA can ensure this area of the BHA jurisdiction will continue to receive the same level of assistance as previously received under separate contracts.

☐ 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 110 Russell Road, Bremerton, WA 98312
☐ Other (list below)

(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:

- Participant can demonstrate efforts to locate an acceptable unit and inability to do so.
- Participant has medical need that impedes their ability to look for a unit.
- As a form of reasonable accommodation.

(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**)

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)

- Households living in areas of Westpark Public Housing that are designated for relocation as part of the phased redevelopment.
- Households moving from Poplars Apartments who are eligible for tenant-based assistance based on project-based voucher guidelines.
- Graduates from the Supportive Housing Program (SHP).
- *For the Mason County Jurisdiction*: Graduates of the TBRA program

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.

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

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)

1 Households living in areas of Westpark Public Housing that are designated for relocation as part of the phased redevelopment.

2 Households moving from Poplars Apartments who are eligible for tenant-based assistance based on project-based voucher guidelines.

3 Graduates from the Supportive Housing Program (SHP).

4 Date and time of application

**For the Mason County Jurisdiction*:

1 Graduates of the TBRA program

2 Date and time of application

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

☒ Date and time of application*

**This is applicable for the Mason County Jurisdiction also*

☐ 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)

b. How does the PHA announce the availability of any special-purpose section 8 programs to the public?
☒ Through published notices
☒ Other (list below)
- Notification to families on the waiting list
- Posting on the web page

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**:**

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) $200 per month
☒ Other (list below)
- Increase in household income which comes as the result of a new income source;
- A person with earned income joins the household; and/or
- If it is found that the tenant misrepresented the facts upon which rent is based.

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)

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)

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)

(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. Attachment (7): Org Chart
(select one)
☒ An organization chart showing the PHA's management structure and organization is attached.
☐ 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	540	100%
Section 8 Vouchers	840	9%
Section 8 Certificates	N/A	N/A

Section 8 Mod Rehab	31	2%
Special Purpose Section 8 Certificates/Vouchers (list individually)	214	Unknown
Public Housing Drug Elimination Program (PHDEP)	N/A	N/A
Other Federal Programs(list individually)		
Supportive Housing Program	10	5%

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)

- Admissions and Continued Occupancy Policy;
- Maintenance Policy; and
- LIPH lease
- Written internal Standard Operating Procedures

(2) Section 8 Management: (list below)

- Section 8 Administrative Plan
- Written internal Standard Operating Procedures

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)

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:
WA003-01 Westpark

☒ 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:
WA003-01 Westpark

☐ 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:

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: Westpark 1b. Development (project) number: WA003-01
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: (8/29/2007)
5. Number of units affected: 571

6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: 5/2008 b. Projected end date of activity: 12/2012

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: Westpark (Firs II); now known as Bay Vista Commons 1b. Development (project) number: WA19P003010
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: approved 12/14/2005
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: 60 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:
BHA has chosen to offer homeownership assistance to eligible families who are receiving Section 8 tenant-based assistance. Instead of using the Housing Choice Voucher subsidy to help with rent, a qualified family may be able to utilize the subsidy to pay on a home mortgage.

Under this program, the eligible family is responsible for securing their own financing and finding their own eligible property to purchase. After the purchase is complete, BHA will make the monthly subsidy payment directly to the family's mortgage lender for up to 15 years.

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

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? 12/11/06

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.)

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)
Key to a Better Life ("Key Program") ROSS Grant FY04 Provide a variety of services to promote self-sufficiency. Ranging from education, job search, pre-employment training, GED classes and self improvement classes with assistance of local community partners.	100+ participant annually	Must be a resident of BHA Westpark or Tara Heights	WPCC	Public Housing
GED Classes Includes assessment and tutoring.	12-20 participants quarterly	Participant in "Key" program	WPCC	Public Housing
Barista Training Program Intensive course that includes customer service skills, cash handling, preparing	8 participants quarterly	Participant in "Key" program	WPCC	Public Housing

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)
coffee drinks and working at the on-site Café to gain experience.				
The Discovery Process Pre-employment classes that prepare participants to discover their skills and enter the workforce. Includes resume writing.	16 participants per Quarter.	Participant in "Key" program	WPCC	Public Housing
First Impression Program A self esteem and self discovery class designed for women transitioning from welfare to work	8 - 12 participants per quarter	Participant in "Key" program or FSS program	WPCC	Both
Drivers License Preparation To offer an intensive program that provides instruction for those who wish to obtain their drivers license.	Up 12 Bi-quarterly	Participant in "Key" program	WPCC	Public Housing
Empowerment Sessions To motivate individuals in realizing that they can reach their dreams and goals.	Up to 30 Bi monthly	Participant in "Key" program	WPCC	Public Housing
Food Handlers Class & Exam To provide job seekers an opportunity to obtain their food handlers permit.	Up to 20 As needed basis	Participant in "Key" program or FSS program	WPCC	Both
Computer Classes Learning and developing computer skills from beginner to advanced. Job Searches. For adults: designed with employment as an end result. For youth: Assistance with education, and honing	Up to 14 participants at a time. Approx. 300 participants annually	Random	WPCC	Both

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)
skills				
Parenting Classes To teach parents practical techniques' and behavior management for raising children	24 participants bi quarterly	Participant in "Key" program	WPCC	Public Housing
Resume Writing Providing information on the basics of resume writing for employment seekers	At least 5 per month	Participant in "Key" program	WPCC	Public Housing
Job Search Assistance To assist those seeking employment or trying to better their employment find employment.	At least 15 per month	Participant in "Key" program	WPCC	Public Housing
FSS Program To help participants build self-esteem and achieve as well as retain self-reliance through employment, financial stability and asset building assistance.	50	Participant in FSS program based on eligibility criteria	WPCC	Both
Homebuyer Education Classes One of the criteria for the Section 8 to Homeownership participants (the Housing Choice Voucher – Homeownership Option)	120 people	Open to both public and HBA clients	WPCC	Both
Homeownership Counseling and Credit Counseling Program	67 participants Annually	Based on eligibility criteria: FSS Program participants have priority, then disabled persons, then others	WPCC	Both
Budgeting and Personal Finance Classes	10 -18 Participants monthly	Per referral from Housing Program lease department, or Random	WPCC	Both
Housekeeping Classes and Home Organization	4 participants monthly	Per referral from Housing Program lease department	WPCC	Public Housing

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)
Professional Clothes Closet Donated clothing by professional women to assist low income women that are newly entering or returning to work force.	2-4 participants per week	Random	WPCC	Public Housing
Washington Cash To foster economic self sufficiency through self employment training and lending to the low-income population	Approx. 20	Random	Old Smith school on Park Ave. Bremerton WA	Both
Volunteer Program To encourage individuals to become involved in their community.	4 - 8 participants per week	Random	WPCC	Both
Adult Sewing Class Teaching technique and skills to make items out of fabric	14 Participants Annually	Random	WPCC	Both
AARP Tax Preparation Assists with individual tax preparation and suggests EITC	280 participants Annually	Random	WPCC	Both
Community Police Officer To uphold and maintain the laws in the Westpark community to provide a safe and stable environment for the residents.	1 assigned officer	Random	WPCC	Public Housing
Al-Anon Offering supportive fellowship of relatives and friends of alcoholics who share experiences, strength, and hope to solve common problems.	Approx. 4 - 8 participants per week	Random	Searle Hall	All welcome
Narcotics Anonymous To build support services and addressing present risks.	unknown	Random	31 Galyan	All welcome

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)
Homework Club Provides a safe and quiet environment to do school work.	10-20 participants per weekday	Random	WPCC	Public Housing Youth
Girl Scouts Providing activities to pre-teen girls	12 participants per week	Random	WPCC	Public Housing Youth
Mentoring Program (TIME) Mentoring youth	2 kids & mentors meet 4x/month per month	Random	WPCC	Public Housing Youth
Westpark Sports Programs Youth learn sportsmanship, game strategies, coordination.	10 - 20 youth participants per week	Random	WPCC	Both
Youth Snack Program Providing healthy snacks to low income youth.	10 – 20 per day; average daily attendance = 17, serving 6 days per week	Random	WPCC	Public Housing Youth
Field Trips Explore recreation and education activities in community	10 – 20 per month	Regularly attending youth who are well behaved	WPCC	Public Housing Youth

(2) Family Self Sufficiency program/s

a. Participation Description

Family Self Sufficiency (FSS) Participation		
Program	**Required Number of Participants (start of FY 2009 Estimate)**	**Actual Number of Participants (As of: DD/MM/YY)**
Public Housing	25 participants	21 (5/6/2008)
Section 8	25 participants	26 (5/6/2008)

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)

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)

Contract with the Bremerton Police Department for a Community Police Officer

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

Westpark (WA003-01)

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)

D. Additional information as required by PHDEP/PHDEP Plan

PHAs eligible for FY 2009 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: Attachment (1): ACOP, Chapter 10

[24 CFR Part 903.7 9 (n)]

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 - To Be Completed After RAB review

[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:

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)

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: Kitsap 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)

☐ 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)

☐ Other: (list below)

4. The Consolidated Plan of the jurisdiction supports the PHA Plan with the following actions and commitments: (describe below)
Improve the safety and livability of neighborhoods through revitalization and/or demolition of obsolete structures.

D. Other Information Required by HUD

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

BHA Resident Advisory Council (RAC) Members

- Tanya Stansberry, Chair (LIPH)
- Debbie Hilton, Vice-Chair (LIPH)
- Rosie Tarver, Secretary (LIPH)
- Kristafer Whitcher, Treasurer (LIPH)
- Monique Gunn, RAC Community Representative (LIPH)

BHA Resident Board Member

- Tanya Stansberry

Attachments

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

Attachment (1)	ACOP	Attachment (5)	Admin Plan
Attachment (2)	Deconcentration Policy	Attachment (6)	Stmt of S8 Home Ownership Capacity
Attachment (3)	2007, 2006, & 2005 CFP Annual Stmt		
Attachment (4)	Community Service Requirements	Attachment (7)	Agency Org Chart

PHA Plan
Table Library

Component 7
Capital Fund Program Annual Statement
Parts I, II, and II

Annual Statement
Capital Fund Program (CFP) Part I: Summary

Capital Fund Grant Number WA19P003501-08 FFY of Grant Approval: 10/1/2008

☒ Original Annual Statement

Line No.	Summary by Development Account	Total Estimated Cost
1	Total Non-CGP Funds	
2	1406 Operations	113,049
3	1408 Management Improvements	162,500
4	1410 Administration	0
5	1411 Audit	3,000
6	1415 Liquidated Damages	0
7	1430 Fees and Costs	0
8	1440 Site Acquisition	0
9	1450 Site Improvement	5,000
10	1460 Dwelling Structures	160,000
11	1465.1 Dwelling Equipment-Nonexpendable	0
12	1470 Nondwelling Structures	0
13	1475 Nondwelling Equipment	0
14	1485 Demolition	131,441
15	1490 Replacement Reserve	0
16	1492 Moving to Work Demonstration	0
17	1495.1 Relocation Costs	555,500
18	1498 Mod Used for Development	0
19	1502 Contingency	0
20	**Amount of Annual Grant (Sum of lines 2-19)**	1,130,490
21	Amount of line 20 Related to LBP Activities	0
22	Amount of line 20 Related to Section 504 Compliance	0
23	Amount of line 20 Related to Security	90,000
24	Amount of line 20 Related to Energy Conservation Measures	0

Annual Statement

Capital Fund Program (CFP) Part II: Supporting Table

Development Number/Name HA-Wide Activities	General Description of Major Work Categories	Development Account Number	Total Estimated Cost
PHA-wide	Operations	1406	113,049
PHA-wide	Management Improvements	1408	162,500
PHA-wide	Annual Audit	1411	3,000
WA 3-8	Tara Heights-site improvements	1450	5,000
WA 3-1	Westpark furnace/water heater replacements	1460	10,000
WA 3-8	Tara Heights furnace/water heater/cabinet replacements	1460	150,000
PHA-wide	Demolition	1485	131,441
WA 3-1	Relocation	1495	555,500
	GRAND TOTAL		**1,130,490**

Annual Statement

Capital Fund Program (CFP) Part III: Implementation Schedule

Development Number/Name HA-Wide Activities	All Funds Obligated (Quarter Ending Date)	All Funds Expended (Quarter Ending Date)
WA 3-1	9/30/2010	9/30/2012
WA 3-8	9/30/2010	9/30/2012
PHA-wide	9/30/2010	9/30/2012

Optional Table for 5-Year Action Plan for Capital Fund (Component 7)

Complete one table for each development in which work is planned in the next 5 PHA fiscal years. Complete a table for any PHA-wide physical or management improvements planned in the next 5 PHA fiscal year. Copy this table as many times as necessary. Note: PHAs need not include information from Year One of the 5-Year cycle, because this information is included in the Capital Fund Program Annual Statement.

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

Activities for Year 1	Activities for Year : 2 FFY Grant: CFP109 PHA FY: 2009			Activities for Year: 3 FFY Grant: CFP110 PHA FY: 2010		
	Development Name/Number	**Major Work Categories**	**Estimated Cost**	**Development Name/Number**	**Major Work Categories**	**Estimated Cost**
See						
Annual						
Statement						
	Westpark Redevelopment	1406	80,000	Westpark Redevelopment	1406	70,000
		1408	160,000		1408	140,000
		1411	5,000		1411	5,000
		1485	155,000		1485	185,000
		1495	400,000		1495	300,000
Total CFP Estimated Cost			$800,000			$700,000

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

Activities for Year : 4 FFY Grant: CFP111 PHA FY: 2011			Activities for Year: 5 FFY Grant: CFP112 PHA FY: 2012		
Development Name/Number	**Major Work Categories**	**Estimated Cost**	**Development Name/Number**	**Major Work Categories**	**Estimated Cost**
Westpark Redevelopment	1406	40,000	***Westpark Redevelopment***	1406	40,000
	1408	80,000		1408	80,000
	1411	3,000		1411	3,000
	1460	50,000		1460	277,000
	1485	227,000			
Total CFP Estimated Cost		$400,000			$400,000

Optional Public Housing Asset Management Table

See Technical Guidance for instructions on the use of this table, including information to be provided.

Public Housing Asset Management								
Development Identification		**Activity Description**						
Name, Number, and Location	Number and Type of units	Capital Fund Program Parts II and III *Component 7a*	Development Activities *Component 7b*	Demo/dispo *Component 8*	Designated HSG *Component 9*	Conversion *Component 10*	Home-ownership *Component 11a*	Other (describe) *Component 17*

HOUSING AUTHORITY OF THE CITY OF BREMERTON

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

FOR THE

PUBLIC HOUSING PROGRAM

April 21, 2008

Revision Date	

04/21/08 Special BOC Meeting:	Approval of New ACOP (replaces previously approved 05/24/04 policy in full)
Resolution No.:	B08-07
04/25/08 Via Email:	Submitted to HUD *(though HUD approval is not required)*

110 Russell Road · P.O. Box 4460 · Bremerton, WA 98312 · Phone: (360) 479-3694 · TTY: (360) 377-8606 · Fax: (360) 616-8558

The Housing Authority of the City of Bremerton (BHA) does not discriminate on the basis of race, color, national origin, religion, sex, disability or familial status in admission or access to its programs. If you need to request a reasonable accommodation, contact the BHA Section 504 Coordinator, April Davis at (360) 479-3694.

Equal Housing Opportunity

Barrier Free

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Abbreviations

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

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
PH OCC GB	Public Housing Occupancy Guidebook, June 2003.
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.

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Resources and Where to Find Them

Following is a list of resources helpful to the BHA or referenced in the ACOP, and the online location of each.

Document and Location
Code of Federal Regulations www.access.gpo.gov/nara/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Enterprise Income Verification (EIV) System PHA Security Procedures, Version 1.2, issued January 2005 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

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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 Verification Guidance, March 9, 2004. www.hud.gov/offices/pih/publications/notices/04/pih2004-1.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
Public Housing Occupancy Guidebook, June 2003. www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm
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
PIH Notice 2006-23 (HA), Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 www.hud.gov/offices/pih/publications/notices/06/pih2006-23.pdf

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 I

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The BHA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The BHA 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 BHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The BHA 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 BHA and its programs with emphasis on the public housing 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: Bremerton Housing Authority (BHA). This part includes a description of the BHA, its jurisdiction, its programs, and its mission and intent.
>
> Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.
>
> Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE BHA

1-I.A. OVERVIEW

The Public Housing Program was created by the United States Housing Act of 1937. Administration of the Public Housing Program and the functions and responsibilities of the Housing Authority of the City of Bremerton () staff shall be in compliance with 's Personnel Policy, any Union agreements with BHA, and this Admissions and Continued Occupancy Policy (ACOP). The administration of the BHA's housing program will also meet the requirements of the Department of Housing and Urban Development. Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State, and local laws, including Fair Housing laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 CFR, Parts 1, 5, 8, 100 and 900-966 (Code of Federal Regulations).

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1-I.B. ORGANIZATION AND STRUCTURE OF THE

Public housing is funded by the federal government and administered by the **Housing Authority of the City of Bremerton (BHA)]** for the jurisdiction of **City of Bremerton and Kitsap County.**

The officials of a BHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which BHA conducts business, ensuring that policies are followed by BHA staff and ensuring that BHA 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 BHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of BHA.

The principal staff member of BHA 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 BHA's staff in order to manage the day-to-day operations of BHA 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. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some s, the ED is known by another title, such as chief executive officer or president.

1-I.C. 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 the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

Policy

BHA's mission is to attempt to relieve the shortage of safe, decent and affordable housing available to low-income persons; to create opportunities for residents to increase their self-sufficiency and independence; and to assure fiscal integrity in all programs it administers.

To achieve this mission, BHA strives to:

- Recognize the residents as its ultimate customers.
- Develop problem-solving partnerships with the private sector, HUD, local governments and the community.
- Improve management and service delivery efforts through resource management, risk assessment, and implementation by trained, diagnostic, and results-oriented staff.

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- Implement resident initiative programs that offer opportunities such as skills and educational training, the possibility of homeownership and substance abuse programs.

1-I.D. THE BHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the BHA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the BHA resolves to:

- 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 good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- 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- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the BHA'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 BHA's support systems and commitment to our employees and their development.

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

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PART II: THE PUBLIC HOUSING PROGRAM

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the BHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the BHA. The BHA must create written policies that are consistent with HUD regulations. Among these policies is the BHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the BHA.

The job of the BHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The BHA screens applicants for public housing and, if they are found eligible and accepted, the BHA offers the applicant a unit. If the applicant accepts the offer, the BHA will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a tenant of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the BHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the BHA owns the public housing development, the BHA is the landlord. The BHA must

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comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and BHA policy.

1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, the BHA enters into a contractual relationship with HUD through the ACC. The BHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved – HUD, the BHA, and the tenant – must play their important parts.

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

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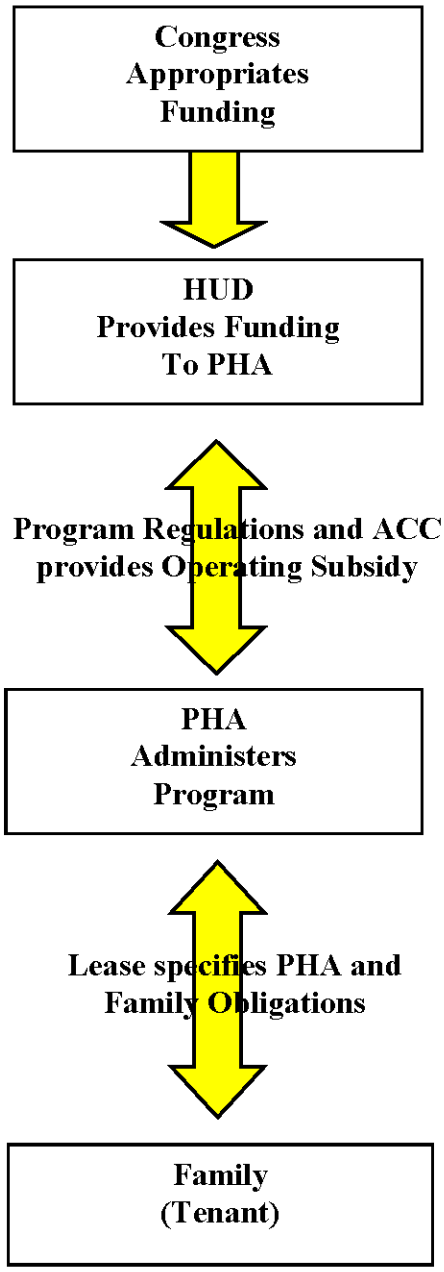
The Public Housing Relationships



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What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

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

What does the BHA do?

The BHA's responsibilities originate in federal regulations and the ACC. The BHA owns and manages public housing developments, administers the 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
- Maintain housing units by making any necessary repairs in a timely manner
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure the BHA has adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and 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 BHA's ACOP, and other applicable federal, state and local laws.

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What does the Tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease
- Provide the BHA with complete and accurate information, determined by the BHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by the BHA
- Allow the BHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify the BHA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify the BHA 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 in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: BHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

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PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

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

The ACOP is the BHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the BHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The BHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the BHA's written policy. At a minimum, the ACOP plan should cover BHA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any BHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the BHA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to the BHA of amounts the family owes the BHA (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

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New Approach to Policy Development

HUD has developed an approach to monitoring policy that emphasizes the importance of consistency. The ACOP supports that goal by clearly defining BHA policy for BHA management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how BHAs conduct their business and in how HUD monitors BHA activities. HUD has made it clear that consistency in BHA conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying BHA 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 BHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the BHA has adopted. The BHA's Admissions and Continued Occupancy Policy is the document that contains and clarifies BHA policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of BHA policy, even though it is not mandatory, provides a BHA with a "safe harbor." If a BHA adopts its own optional policy, it must make its own determination that such policy 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 that suggested by HUD, but BHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

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

BHA Policy

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

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Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

This chapter describes HUD regulations and BHA 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 BHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing 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 BHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal* Register ("Notice of Guidance").

The BHA's Section 504 Coordinator is responsible for monitoring BHA's compliance with its reasonable accommodation policy as outlined in this Chapter. Individuals who have questions regarding this policy, its interpretation, or implementation should contact BHA's Section 504 Coordinator in writing, by telephone, or by appointment as follows:

April Davis, Section 504 Coordinator
P.O. Box 4460
Bremerton, WA 98312
adavis@bremertonhousing.org
(360) 479-3694 Phone
(360) 377-8606 TTY Number
(360) 782-9591 Fax

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PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families 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 BHA 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)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

2-I.B. NONDISCRIMINATION

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

The BHA 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.

> BHA Policy
>
> The BHA will not discriminate on the basis of marital status or sexual orientation.

The BHA 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 public housing 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

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- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant 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

The BHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the BHA will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the BHA, the family should advise the BHA. HUD requires the BHA to make every reasonable attempt to determine whether the applicant's or tenant family's assertions have merit and take any warranted corrective action.

BHA Policy

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

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

The BHA 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).

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PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

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 BHA must ensure that persons with disabilities have full access to the BHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The BHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

BHA Policy

This policy sets forth the criteria and the process by which BHA shall fulfill its legal obligations to reasonably accommodate the needs of tenants and other recipients of BHA services or applicants. This policy also sets forth the criteria and the process by which BHA will make reasonable modifications to its premises to make them accessible for use by disabled persons.

BHA does not intend this policy to enlarge its legal obligations.

The procedures set forth in this policy provide the grievance process required by 24 C.F.R. § 8.53(b) and 28 C.F.R. § 35.107(b), along with the additional complaint and grievance procedures of *BHA Grievance Procedure for Tenants, Voucher Holders, and Applicants.*

BHA intends the procedure in this policy to provide a reasonable balance between informality and structure. Informality allows BHA staff to respond quickly to a request for accommodation/modification. Informality also can encourage a hospitable interactive discussion with people seeking accommodation/modification unburdened by formal structure. More formality can slow down BHA's response and be less hospitable. However, a more formal process can also provide better assurance that BHA's response is informed, correct, and well documented. In general, this policy tries for a balance by providing a faster, less formal process for approving requests and a more formal process for denials.

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Sources used for this policy include:

► Fair Housing Act ~ 42 U.S.C. § 3601 et seq ~ 24 C.F.R. Part 100 et seq ~ H 02-03 (May 3, 2002) ~ PIH 2003-31 (November 26, 2003) ~ Joint Statement of HUD and DOJ on Reasonable Accommodation under the Fair Housing Act (May 17, 2004)	► American with Disabilities Act ~ 12 U.S.C. § 12101 et seq ~ 28 C.F.R. Part 35 ~ 29 C.F.R. § 1630
► Washington Law Against Discrimination ~ Chap. 49.60 RCW ~ Chap. 162-26 WAC ~ Chap. 162-38 WAC	► Section 504 of the Rehabilitation Act of 1973 ~ 29 U.S.C. § 794 ~ 24 C.F.R. Part 8

Parties Responsible for Compliance with Policy

Who	Responsibilities
All BHA Staff	All staff must be alert for the needs that disabled persons (other staff, tenants, Voucher holders, and applicants) may have for reasonable accommodation/modification under this policy. When appropriate, staff should offer to help persons who appear to need help making a request under this policy for reasonable accommodation/modification.
Section 504 Coordinator	► BHA's Section 504 Coordinator is designated as BHA's Civil Rights Compliance Coordinator. This means that he or she has the following duties: ► Coordinate and monitor BHA's compliance with this policy; ► Coordinate BHA's compliance with Section 504 and the ADA pursuant to 24 C.F.R. § 8.53(a), and 28 C.F.R. § 35.107(a). ► Chair and Staff the Reasonable Accommodation Review Committee pursuant to this policy; ► Mail all notices under this policy; ► Proper storage of the records under this policy; ► Compile data on BHA's compliance under this policy; ► Arrange for training as appropriate for staff with responsibilities under this policy. ► Responsible for reviewing reasonable accommodation/modification request. Section 504 Coordinator is responsible for making a decision on the request. ► Serve as First and Second Line Staff person on requests for reasonable accommodations that do not fall within the responsibility of anyone else.
Housing Specialists Property Managers Relocation Coaches	*First Line Staff*: These staff are responsible for receiving requests for accommodation/modification from persons within their areas of responsibility. They are responsible for gathering information necessary to assess the request and making a recommendation to the Second Line Staff. They are also responsible for being the BHA contact for the requester and guiding that person through the process set out in this policy.

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Department Director HCV Manager Property Manager Affordable Housing Manager Relocation Manager Resident Initiatives Manger	*Second Line Staff:* These staff are responsible for reviewing the information gathered by the First Line staff person in their departments and that person's recommendation for each request for reasonable accommodation/ modification. Second Line Staff are responsible for recommending a decision on the request and forwarding all information to the Section 504 Coordinator.
Reasonable Accommodation Review Committee	Reviews all denials of reasonable accommodation/modification requests or requester appeals from modified approvals. The members of the Committee are: ► Section 504 Coordinator, Chairperson ► Director of Housing Programs or designee, Vice Chairperson ► BHA staff person chosen by Executive Director ► Representative of community organization that serves disabled persons, chosen by Executive Director
Executive Director	The Executive Director must approve all accommodations/modifications that cost more Than $ 2,000 in any one year.

2.II.B. DEFINITIONS

Disability	"Disability" means the following: 1. A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. OR 2. The presence of a sensory, mental, or physical impairment That: (i) Is medically cognizable or diagnosable; or (ii) Exists as a record or history; or (iii) Is perceived to exist whether or not it exists in fact. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.
Impairment	"Impairment" includes, but is not limited to: (i) 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, genitor-urinary, hemic and lymphatic, skin, and endocrine; or (i) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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2.II.C. Obligation to Reasonably Accommodate/Modify

Upon receiving a request to do so, BHA will make reasonable accommodation in rules, policies, practices, or manner of its services when such accommodation is necessary to afford a qualified disabled person equal opportunity to use and enjoy BHA employment, housing, common areas, programs, or facilities, including public and common use areas.

Upon receiving a request to do so, BHA will make reasonable modification to its existing premises if necessary to afford a qualified disabled person full enjoyment of its programs. BHA will pay for requested modifications to its property that BHA approves pursuant to this policy.

BHA's rules, policies, or practices are not required to produce equal results or levels of achievement for individuals with disabilities and non-disabled persons but only must afford disabled persons an equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement.

2. II. D. Criteria for BHA's Obligation To Accommodate or Modify

BHA will grant requests for accommodation or modification that are shown with adequate verification to satisfy all of the following four criteria.

Criteria 1: Request
BHA must receive a request for the accommodation or modification. The request does not have to come from the disabled person in question. Another person may make the request on behalf of the disabled person. The request does not have to be in any particular form. It may be verbal. The person should use the BHA-approved form however if they are unable to do so a BHA staff person will assist them.

Criteria 2: Disability
The accommodation or modification must be for a person who fits the definition of disability. It is not necessary for BHA to know the details of a disability. BHA will not require a person to grant it access to confidential medical records in order to verify a disability. It is enough to get verification of the manifestation of the disability from someone who is in a position to know. That person need not have a medical degree or a particular expertise. However, BHA must have adequate confidence in their judgment and competence. BHA's staff may also know enough about a requester to assess whether the person is disabled.

Criteria 3: Necessity for Reasons Substantially Related to the Disability
The requested accommodation or modification must be necessary for the disabled person's full enjoyment of BHA programs, facilities, or employment, or premises, and the necessity must be substantially related to the disability.

BHA is not obliged to provide an accommodation or modification that, although not necessary, would be beneficial or convenient.

BHA is also not obliged to provide an accommodations or modifications that may be necessary to the tenant but for reasons that are not substantially related to the

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disability.

Criteria 4: Reasonableness
The requested accommodation or modification must be reasonable. A request is not reasonable if any of the following are true:

(a) **Undue Administrative Burden on BHA**
The request would, if approved, impose an undue administrative burden on BHA. This may mean that the request would require more staff time than BHA has available.

BHA will determine on a case by case basis whether a request would impose an undue administrative burden. Relevant factors include: the administrative cost or burden of the requested accommodation in comparison with the administrative cost of regular operation; limits or availability of BHA's overall resources; the benefits that the accommodation would provide to the requester, and the availability of other, less expensive alternative accommodations that would effectively meet the requester's disability-related needs.

(b) **Undue Financial Burden on BHA**
The request would, if approved, impose an undue financial burden on BHA. This may mean that the request would cost money that BHA does not have.

BHA will determine on a case-by-case basis whether a request would impose an undue financial burden. Relevant factors include: the financial cost of the requested accommodation compared with the cost of the regular operation, availability and limits of BHA's overall financial resources; whether BHA has specifically budgeted money for the purpose and whether any of that money remains for the fiscal period; the benefits that the accommodation would provide to the requester, and the availability of other, less expensive alternative accommodations that would
effectively meet the requester's disability-related needs.

(c) **Fundamental Alteration in the Nature of BHA's Program(s)**
The request would, if approved, fundamentally alter BHA's program(s). In the case of a request from an employee, the request is not reasonable if it would not allow the employee to perform the essential functions of his or her job.

If the requested accommodation/modification is not reasonable, BHA will explore other accommodation/modifications that would address the person's need and that would be reasonable. If these alternatives are available, BHA will offer them.

2.II.E. Burden of Proof

The person making the request has the burden of showing that the first three of

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the four criteria in the above section are satisfied. Under the fourth criteria, BHA bears the burden of showing that the request is not reasonable.

2.II.F. Review of Reasonable Accommodations/Modifications

All Reasonable Accommodation/modification approvals are subject to BHA's later review, modification, or withdrawal. BHA may request more information during such reviews to determine the continued need and/or reasonableness of the accommodation. For BHA Program participants, BHA will review approvals at least once a year during any applicable annual recertification.

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2.II.G. Outline of Procedure

This graphic is a summary outline of the procedure. Sections below describe the process in more detail.

BHA's Receipt of Request for Accommodation or Modification

First Line Staff Recommendation

If Requester is	*First Line Staff is*
BHA staff/Job Applicant	Resident Initiatives Manager
Tenant/Applicant for Housing	Housing Assistant/Specialist; Property Mgr
Voucher Client/Applicant	Housing Specialist
Community Service Client/Applicant	Section 504 Coordinator
Other	

- receive request
- send copy to Section 504 Coordinator
- investigate merits of request
- discuss with requester; seek agreement
- make recommendation
- send form to Second Line Staff (generally within **ten (10) working days** of BHA's receipt of request)

Second Line Staff Decision

If First Line Staff is	*Second Line Staff is*
Property Mgr	Housing Director
Housing Assistant/Housing Specialist	HCV or Property Manager
Relocation Coach	Relocation Manager
Section 504 Coordinator	

- make decision (***Executive Director must approve all accommodations costing> $2,000 in any one year)***
- record decision on and send to Section 504 Coordinator generally within **five (5) working days** of receipt of First Line Staff recommendation.

Section 504 Coordinator sends letter to requester announcing decision, generally within **five (5) working days** of receiving the matter from the Second Line Staff person.

Initial Denial Letter
Copy to First and Second Line Staff Person

Letter explains Review Committee process and invites requester to request review by Reasonable Accommodation Review Committee.

Available Appeal to Reasonable Accommodation Review Committee if requester is not satisfied with approval and if Committee had not yet reviewed it.

Review by Reasonable Accommodation Review Committee

- committee should convene promptly
- requester may participate
- discussion
- decision
- record decision on and send to Section 504 Coordinator

Approval
from Section 504 Coordinator
[copy to First and Second Line Staff]

Final Denial
from Section 504 Coordinator

[copy to First and Second Line Staff]

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2.II.H. BHA Staff Responsibilities; Reasonable Accommodation Review Committee

Time Lines in This Policy

This policy sets forth general time lines for each stage of the process. By those time lines, BHA will generally give an initial response within twenty (20) working days of receiving a request. However, these are only general guidelines. Several factors will affect how long it should take. **First**, BHA should take a much shorter time to answer requests that BHA should clearly grant because the basis for them is clear. *E.g*, BHA should not need much time to allow a clearly qualified service animal to a tenant who is clearly visually impaired or to approve the installation of a shower grab bar for a tenant who clearly needs one. In these cases, BHA staff should speed up each stage of the process to approve the request within a few days. **Second**, BHA should speedily respond to a request for an accommodation that also is necessary to address a safety threat. As appropriate in such cases, staff can rely on verbal approval and allow the paperwork of this policy catch up later. **Third**, BHA may also require more time than the general time lines set forth in this policy to answer a request that presents hard questions or that is based upon facts that are not clear.

Receiving and Investigating Requests and Making Assessments

The BHA staff designated below will have the indicated responsibilities to respond to requests for accommodation/modification.

Person Seeking Accommodation/ Modification	**FIRST LINE STAFF** ► **Receive Request** ► **Gather Information** ► **Discuss with Requester** ► **Make Recommendation** ► **Guide requester through process**	**SECOND LINE STAFF** **Make Decision recommendation**
Tenant/Applicant for Housing	Housing Assistant/Specialist; Property Mgr	Housing Director or Property Manager
Voucher Client/Applicant	Housing Specialist	HCV or Property Manager
Community Service Client/Applicant	Resident Initiatives Manager	
Other	Section 504 Coordinator	

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	Executive Director must approve all accommodations costing > $2,000 in any one year

Designation of Reasonable Accommodation Review Committee

BHA shall have a Reasonable Accommodation Review Committee as follows:

(a) Committee Membership

The following persons shall constitute the Reasonable Accommodation Review Committee. This shall be a standing Committee.

(i) BHA Section 504 Coordinator, Chair and Staff to the Committee

(ii) Housing Programs Director; or designee;

(iii) Another BHA staff person (preferably a person who is disabled or has a personal acquaintance with the needs of disabled persons), appointed by the Executive Director; the Executive Director may change this appointment at any time.

(iv) A representative of a community organization that serves disabled persons, appointed by the Executive Director. The Executive Director may change this appointment at any time.

Anyone participating as a Committee member must have received reasonable accommodation training.

(b) Committee Responsibilities

(i) To review and adjudicate all appeal of denials of requests for accommodation or modification. For its review, the Committee shall use the criteria and procedures set forth in this policy;

(ii) To store the records of all reasonable accommodation/modification requests that BHA receives, with all associated documentation, and compile the data from these records to show their aggregate numbers, types of requests, outcomes, and other information useful for tracking BHA's compliance with this policy. BHA's Section 504 Coordinator shall be the custodian of these records;

(iii) To monitor BHA's compliance with this policy; to report annually on BHA's compliance to the Executive Director;

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(iv) To recommend policy changes to the Executive Director and ways to improve BHA's compliance with the policy.

Training for Staff

All persons designated with responsibilities in this section shall first receive training on the duty of reasonable accommodation/modification.

2.II.I. How to Request Reasonable Accommodation/Modification

A person seeking accommodation/modification must request it from BHA or have someone else request it on his or her behalf.

The request need not be in any particular form. BHA will respond to verbal requests. In addition, the person making the request does not have to use any particular words. For example, the person does not have to ask explicitly for "reasonable accommodation."

A person seeking reasonable accommodation/modification may direct his or her request to the First Line staff persons designated above to receive and investigate requests. Any other staff person receiving a request should direct the request to these First Line staff persons. For example, many tenants will make their request of a maintenance staff person. The maintenance staff should help the tenant direct the request to the property manager. If necessary, the maintenance staff should convey the request him or herself to the property manager.

The person making the request should use the BHA-approved form. This form shall be available from any BHA office. It shall also be part of the orientation material given to tenants and Voucher holders.

The designated First Line staff person shall offer to help the person fill out the form. If the requester does not wish to use the form or if the request is verbal, the First Line staff person shall fill it out using information the requester provides. The First Line staff person who fills in the BHA-approved form for a person seeking reasonable accommodation/modification should read it back to the person and verify that it accurately reflects the person's intended request.

The First Line staff person shall remain the requester's guide and primary contact person throughout the process. The First Line staff person shall immediately email notice of the request to the Section 504 Coordinator. This copy serves to alert him or her about the request so he or she can track it through this policy.

2.II.J. First Line Staff Person

Gather Information

The First Line staff person shall gather the information necessary to assess the request under the criteria mentioned above.

(a) <u>Sources of Information</u>

The following will be common sources of Information:

(i) ***Information That BHA already possesses***

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BHA may already possess pertinent information. For example, BHA staff may already be quite familiar with a tenant or Voucher holder's disabilities. BHA is free to use this information to support or refute the request.

(ii) ***Disabled Person***

The disabled person will usually know better than others the extent of his or her disabilities and related needs. The staff person should use the BHA-approved form to seek more information from the requester.

(iii) ***Third Parties***

Information from third parties is often helpful or necessary. Social service providers or medical providers, in particular, may have information needed to assess a request. To seek third party information, staff may use the BHA-approved form. The staff person should enclose the authorization for the release of information that the requester signed as part of the request packet. If the written information from a third party is unclear or needs clarification, staff should call them directly.

(b) <u>What information to seek and what not to seek</u>

BHA should seek only what it needs to know in order to assess the request for reasonable accommodation. *E.g*, that someone is disabled under the definition; that the requested accommodation is necessary for reasons related to the disability.

BHA does not need, and should not ask to know, the type of disability or diagnosis. The requester may volunteer this information, which may indeed be helpful to assess the request.

Interactive Discussion

The First Line staff person shall affirmatively engage the requester or his or her representative in an interactive discussion for the following purposes:

(a) To collect information that the requester has to provide;

(b) To help BHA understand the requester's needs and proposals;

(c) To help the requester understand BHA's needs and requirements;

(d) To fully explore all alternatives and seek an agreement on a solution. BHA may propose alternative ways to address the disabled person's needs. The goal is to find a solution for genuine needs. Agreements should be put in writing. Second Line Staff must sign all agreements for BHA. NOTE: the Executive Director must approve agreements that cost more than $ 2,000 in any one year.

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Recommendation and Report

The First Line staff person will record the information and the various proposals discussed along with his or her recommendation on a BHA-approved form. He or she shall forward the form and accompanying information to the Second Line staff person designated to make the decision. He or she shall try to do so within five (5) working days from the date BHA received the request. If the request is urgent, he or she will try to do this more quickly.

2.II.K. Second Line Staff Person

Using the process below, the Second Line staff person shall make a decision about the request. In the normal course, he or she will do this within five (5) working days from the receipt of the First Line staff person's recommendation and within that time give the Section 504 Coordinator the record of the decision on the same form that the First Line Staff person used.

The Section 504 Coordinator will send the requester written notice of the decision.

If the Second Line Staff Person decides that BHA needs information to assess the request, he or she shall seek it, generally by asking the First Line Staff Person to collect it. In any event, the Second Line Staff Person is responsible for making and monitoring arrangements to procure the needed information and making a decision when the information arrives or doing without it if it proves unavailable within a reasonable time.

There are three types of decisions:

(a) Approval of request: In this event, the Second Line Staff Person shall be responsible for seeing to implementing the approved accommodation and modification and documenting that it gets done.

(b) Approval of alternate accommodation/modification:

(c) Denial, subject to review by the Reasonable Accommodation Review Committee:

The Section 504 Coordinator may reverse or modify a decision, generally on legal grounds.

2.II.L. Executive Director Approval

The Executive Director, of his or her designee, must approve all accommodations/modifications that cost more Than $ 2,000 in any one year.

The Executive Director has the authority to direct the approval or denial of any request.

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2.II.M. SECTION 504 COORDINATOR

The Section 504 Coordinator shall report the decision to the requester using the appropriate forms.

The approval may be for an alternative form of accommodation/ modification. The requester may not be satisfied with the alternation. He or she may request an informal review before the Reasonable Accommodation Review Committee to review the matter. He or she may participate in the review.

A response may be a mix of both approval and denial. The Section 504 Coordinator should use that form that seems to fit best. Either form allows the requester to seek the Committee's review.

The Section 504 Coordinator will then send a copy of the letter to the First and Second Line Staff Person. This will inform them and help them learn.

2.II.N. REASONABLE ACCOMMODATION REVIEW COMMITTEE

BHA's Reasonable Accommodation Review Committee will review all requested reasonable accommodation/modification appeals. It shall apply the criteria listed above.

Committee Process

(a) The CRCC shall convene the Committee whenever necessary under this policy.

(b) The Committee Chairperson shall preside. In his or her absence, the Vice-Chair shall preside.

(c) Three Committee members shall constitute a quorum.

(d) The Second Line Staff Person whose decision is being reviewed will present the decision and the basis for it. If he or she is also a Committee member he or she shall not vote in the Committee's decision. In that event, the CRCC may appoint a temporary replacement on the Committee for the case.

(e) The Committee shall decide by a majority vote of members voting; a tie vote upholds the decision under review. PROVIDED that the Civil Rights Compliance Coordinator may direct a reversal of a denial on legal grounds without regard to the majority vote.

(f) The Committee's process shall be informal and conducive to a speedy and informed decision.

If Requester or His or Her Representative Chooses to Participate

If the requester or his representative chooses to participate in the Committee's review, then the following additional procedures will apply:

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(a) The requester may appear before the Committee in person or through a representative that he or she affirmatively authorizes.

(b) The Committee shall schedule its meeting so as to reasonably accommodate the schedule of a requester and/or his or her representative.

(c) The requester or his or her representative may, in advance of the Committee's meeting, review and copy at BHA expense any documentation that the Committee will rely upon in the matter.

(d) The requester or his or her representative may make a presentation in support of the request.

(e) The Second Line Staff Person for the matter shall then present the basis for the denial.

(f) The Committee may consider new information presented at the review.

Committee's Decision

The Committee shall make a decision as promptly as reasonably possible after the conclusion of the review. The Civil Rights Compliance Officer may overrule the Committee. The Executive Director must approve any accommodation/modification that costs more Than $ 2,000 in any one year.

Final Decision

The Committee's decision shall be final subject to the authority of the Section 504 Coordinator and the Executive Director to overrule its decision.

Other Grievance Processes

BHA will use the procedures in this policy to respond to requests for reasonable accommodation/modification. Some persons also have access to other grievance processes within BHA: *i.e.*

Tenants Voucher Holders	Grievance Procedure for Tenants, Voucher Holders and Applicants
BHA Staff	BHA Personnel Policy

Persons with access to these other BHA grievance processes may **not** use them merely because they are dissatisfied with the answer that emerged from this policy's procedures in an attempt to get a different answer. Instead, persons may use the other processes only to complain that BHA failed to follow the procedure in this reasonable accommodation/ modification policy. In that event, the other process may direct BHA to try again under the procedures of this policy, correcting any failure of process.

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2.II.O. Review of Approvals

All approvals are subject to review, modification or withdrawal to account for a change in circumstances. BHA will review them at least annually or whenever it has reason to believe a change in circumstances may warrant modification or withdrawal of an approved accommodation/modification. For BHA Program participants, BHA will review approvals at least once a year during any applicable annual recertification.

2.II.P. Guidelines and Examples for Reasonable Accommodation/Modification

Below are some general guidelines and examples in applying the reasonable accommodation policy.

	GENERAL GUIDELINES
1	Interactive and Good Faith Discussions to Find a Solution BHA staff and the requester must work together in an "interactive" process to identify genuine needs and seek solutions. They both must make a good-faith effort to do this. ► BHA staff should make the process as easy as possible for the requester to use; ► BHA staff should make clear that BHA takes its obligation seriously and remains ready to listen and to try and understand the request. The best way for BHA staff to start this discussion may be simply to ask, "What can I do for you?" ► The requester must cooperate by providing information that will help BHA understand and assess the request under the criteria of this policy. ► Both staff and the requester should show flexibility, creativity, and goodwill.
2	**BHA Will Treat Every Request Individually** BHA will assess each request for accommodation or modification individually. Whether BHA should approve or deny a request usually depends on facts particular to the individual requester's circumstances including the financial, administrative and programmatic limitations on BHA at the time. There are few standard formulas. What one person needs will be different from what other persons need. Similarly, BHA's financial and administrative abilities will also vary. What is reasonable in one situation or at one time may be unreasonable in another.
3	**The Views Or Needs Of Other People** In general, BHA will not consider what other people may think about the request. For example, other people may feel that BHA shows favoritism by allowing a disabled person to keep a service animal that is larger than the pet policy would otherwise allow to non-disabled persons. Similarly, they may object if BHA suspends an eviction for lease violations to give the disabled person a reasonable chance to control a problem that results from the disability. They may feel this is unequal treatment since the same behavior would result in their own eviction. These sentiments are not a reason to deny the disabled person's request. However, other people's needs are a legitimate part of the assessment of whether a request is reasonable. For example, the safety and peaceful enjoyment by other residents are funda-mental attributes of BHA's housing. An accommodation is not reasonable if it would jeopardize them. Similarly, BHA cannot deny a request for fear that an approval would encourage other people to ask for the same accommodation. Instead, BHA should assess each request individually. It may be possible that too many requests would become unaffordable, too administratively burdensome, or work a fundamental alteration in the nature of BHA's

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GENERAL GUIDELINES	
	employment or program. However, BHA should not deny a request by presuming that this will happen.
4	**What if the requester does not provide enough information to support the request?** The requester has the burden of providing the information that will support the request. BHA will reasonably help the requester do this. However, after a reasonable effort or period of time, BHA will make a decision on the request based upon the information that is available. If the information is not sufficient, BHA will deny the request. The requester can always submit another request later with more information.
5	**What if more than one accommodation would work?** If more than one reasonable accommodation/modification would fulfill the needs of the disabled person, BHA and the requester will try to agree on which one to use. If there is no agreement, BHA may choose the option that is less burdensome or expensive, as long as it meets the disabled person's needs.
6	**Verification** BHA is responsible for determining that each request meets the criteria necessary for approval. BHA will do this by requiring adequate verification from sources it deems to be credible. There are no hard rules for this assessment. Generally, BHA must be satisfied that a person who is providing the verification must have adequate knowledge of the facts and adequate skills or experience to offer a useful assessment.

HOW TO REQUEST REASONABLE ACCOMMODATION/MODIFICATION	
1	BHA's legal obligation to accommodate a disability arises when BHA receives a request to do so. Without a request, there is no obligation.
2	A request does not have to be in any particular form. It can be written or verbal. However, BHA staff should help the person put the request in writing using the appropriate form. This form helps to insure a record of the request and prompts a person to provide the information that BHA will need to assess the request. If the person does not want to fill out the form, the staff should fill out the form to create a written record of the request. The staff should make sure that the form accurately reflects the person's intended request.
3	A request does not have to contain or convey any special words. For example, a person does not have to use the words "reasonable accommodation."
4	A request does not have to come from the disabled person. Another person may make the request on behalf of the disabled person. However, in these cases, BHA must be satisfied that the disabled person has authorized the other person to speak for him or her. BHA staff should also be alert to situations where a person may appear to need help even if the person does not request it. In those situations, BHA staff should ask if they would like assistance.

IS A PERSON DISABLED?	
1	Whether or not a person is disabled is frequently evident to BHA staff. *E.g,* ► The person receives income conditioned on a finding of disability (Social Security Disability, SSI, GAU, residence in housing for disabled persons) ► BHA's staff may have sufficient acquaintance with the person to know that the person is disabled. *E.g*, the person may use a wheelchair.
2	If the disability is not evident, BHA needs verification from someone who has both the competence and the necessary acquaintance with the person to make an informed assessment.
3	BHA is only interested to know if the person fits the definition of disability. It is generally unnecessary to know the type of disability or the specific condition or diagnosis.

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IS THE REQUESTED ACCOMMODATION/MODIFICATION RELATED TO THE DISABILITY?	
1	A request must be related to the disability. For example, a sight-impaired employee may reasonably request a special computer monitor to allow him or her to perform the essential functions of the job. It is much less clear why the same employee needs a separate office away from office traffic. A separate office may be beneficial or even necessary for the person to perform the work. However, BHA would not approve this request without a showing that is necessary for reasons related to the disability.

IS THE REQUESTED ACCOMMODATION/MODIFICATION NECESSARY?	
1	The requested accommodation must be necessary. If the requester is a BHA employee, it must be necessary to allow him or her to perform the essential functions of the job. If the requester is a tenant, the requested accommodation must be necessary to allow him or her equal opportunity to use BHA's housing or other services. An accommodation or modification may be beneficial or convenient. That is not enough, however, to oblige BHA to approve it.

IS THE REQUESTED ACCOMMODATION/MODIFICATION REASONABLE?
BHA shall not grant a request for unreasonable accommodation/modification. A request is not reasonable if any of the following are true:
Undue Administrative burden to BHA
BHA is not obliged to approve a request that would impose an undue administrative burden. In general, this means that it would be too hard to do or would require work that BHA's staff does not have the time to do.
Undue Financial burden
BHA is not obliged to approve a request that would impose an undue financial burden. In general, this means that it would cost too much.

Fundamental alteration in the nature of the job or BHA's program	
The law does not oblige BHA to fundamentally change a job or the nature of its services even if the change would be necessary to a disabled person.	
Employment	
1.	Each job at BHA has essential functions. The adequate performance of these functions is fundamental to BHA. BHA will reasonably accommodate disabled employees in ways that will allow them to adequately perform the essential functions of their job. This means that BHA will consider changing aspects of their job or their working environment. Perhaps some additional equipment will be necessary and effective for this purpose to allow a sight or hearing impaired person perform the essential functions of a job. A person who has to receive medical treatment on a particular schedule may still be able to perform the essential functions of the job with a change in the working schedule. BHA will not be able to accommodate a disabled employee who, even with reasonable accommodation, cannot adequately fulfill the essential functions of the job.
2.	BHA will not be able to create a new job or vacancy for the purpose of accommodating a disabled employee.
Tenancy or Services	
Below are examples of some fundamental features of BHA's housing and service programs. BHA will not be able to offer accommodations that alter them.	
1.	**Rent** Receiving full rent on time is fundamental to BHA's programs. Rent is a main source of income that allows BHA to serve its mission. BHA will consider reasonable accommodations that are necessary and effective in allowing a person to pay their rent on time and in

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	full. *E.g,* ► accepting vouchers or payments from third persons who are helping the tenant manage their finances or affairs; ► changing the date that rent is due so that the tenant's rent is not habitually late on account of disability checks regularly arriving after the 1st of the month; ► accepting installment payments on rent arrears that arose from a mental health crisis if there is reasonable assurance that the person will be able to pay the amount due within a reasonable time. If this happens more than once, allowing installment payments a next time may be unreasonable.
2.	**Complying with the lease** A tenant's compliance with the lease is fundamental to BHA's program. BHA will consider reasonable accommodations that are necessary and effective in allowing a tenant to comply. *E.g*, ► *Sanitation*: A tenant's unit may have become unsanitary for reasons related to a disability. Perhaps the tenant lacks the physical or mental ability to comply, yet with supportive services would be able to do so. If the tenant can arrange for those services and cooperates with them to make them effective, BHA will consider delaying any eviction action to give the services a chance to work. Prior failures of services to work in this way or prior failures of the tenant to cooperate with service providers may make it unreasonable to give the tenant another chance.
3.	**No Supportive Services** BHA does not provide in-home care or other services designed to allow disabled persons to live independently. Providing such services would be a fundamental change in BHA's program. BHA will not be able to offer such services as an accommodation.
4.	**Criminal Activity, Safety and Rights of Others** The following are fundamental to BHA's programs: ► prohibition of criminal activity ► safety of all tenants, staff and neighbors ► the rights of other tenants to the peaceful enjoyment of their homes ► protecting BHA's property from damage A tenant may have threatened these fundamentals for reasons related to a disability. For example, he or she may have exhibited threatening behavior to neighbors because he or she needs medication for a mental illness. Taking the medications will effectively control the behavior. BHA will consider a request to forbear from eviction on the condition that the tenant cooperate with a prescribed treatment plan. In such cases, BHA will require adequate assurance that the treatment plan will work to prevent recurrence of the problem and that the tenant will comply with the plan. Past failures to do so may make another chance unreasonable.
5.	**BHA's Compliance with Program Goals or Legal Requirements** BHA's compliance with the policy and legal requirements of its housing or service programs is fundamental to those programs. *E.g* ► income restrictions that reserve housing or housing assistance to persons of specific incomes; ► requirements for periodic verification of income and family composition; ► rules governing waiting lists for housing assistance set forth in BHA's annual plan. In general, BHA will not be able to waive these fundamental attributes of its programs in ways that would put BHA in violation of the laws or contracts that govern its programs.

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SOME SPECIFIC EXAMPLES
Service or Companion Animals
In general, animals can be necessary to disabled persons in two ways. First, the disabled person may need a trained service animal to assist with the person's specific disability, *e.g*. A guide dog for a person with visual impairments. In this event, the person will have to verify That the animal is trained for the purpose. Second, the animal may be necessary as a companion or coping mechanism for a person disabled by a mental or emotional impair-ment. Such "companion animals" do not need specific training. In either case, the person will have to verify their need for the animal. A person can verify this is varied ways. The general discussion in § 8.4.1 applies. In either case, the person will not have to pay the pet deposit or other fees under BHA's pet policy. However, the person must comply with those other aspects of the pet policy that do not unreasonably interfere with the use of the animal to address the need arising from the disability. For example: ► A disabled tenant may need a companion animal but will probably not need an animal that violates the pet policy's restrictions on size and breed. The question becomes harder if a disabled person needing a companion animal already has one when he or she moves into BHA's housing. In such a case, he or she may already have a long-term bond with the animal that is necessary to continue for reasons related to disability. In this case, the issue becomes whether the animal's size or breed are such as to make it unreasonable for BHA to allow. ► A disabled tenant must still register the animal under the BHA pet policy ► A disabled tenant is still responsible for the animal's behavior, care and sanitation so as to comply with the lease standards.
Communication Aids
To help BHA communicate with disabled persons, BHA will offer appropriate aids where necessary to afford a disabled person an equal opportunity to participate in and enjoy the benefits of BHA's programs or activities. BHA will readily provide the following: ► additional explanation of program rules; ► offer information in different ways (*e.g,* verbally, larger written type, plainer language; sign language interpreter or reader); ► exchange information with a representative or contact person that the disabled person designates for the purpose; ► Where a person communicates by telephone, BHA will when necessary use telecommunication devices for deaf persons (TDD) or other equally effective ways to communicate. *See* 28 C.F.R. § 35.160-.164; 24 C.F.R. § 8.6.
Requested Modifications to Dwelling Units
A disabled person may request BHA to modify his or her dwelling unit in ways that are necessary to make the unit accessible to him or her. At its own expense, BHA will either (i) transfer the person to an available accessible unit or (ii) make the necessary modifications to the present dwelling unit if doing so does not impose an undue financial or administrative burden or fundamentally alter the nature of its housing program. BHA will make the reasonable modification to the present unit if (i) there are no other accessible units available within a reasonable time period; (ii) if the transfer would impose an unreasonable hardship to the tenant or applicant; or (iii) the modification would make

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	the unit significantly more accessible for future disabled occupants of the unit.
Assignment or Transfer to an Accessible Unit	
	Assignment or transfers of persons to units designed to be accessible to persons with disabilities is governed by the Admissions and Continued Occupancy Policy.
Waiting List	
	BHA removes persons from its waiting lists who do not respond to BHA's requests for information or updates. If the applicant did not respond because of a family member's disability, BHA will reinstate the family to its former position on the waiting list.
Transportation	
	If BHA is providing transportation to functions or activities, on request it will provide accessible transportation to accommodate persons with disabilities and their aides.
Live-in Aides	
	Live-in aides are governed by Admissions and Continued Occupancy Policy.

2-II.Q. Physical Accessibility

The BHA 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 BHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the BHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the public housing 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 BHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of BHA 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 public housing program.

2-II.R. Denial or Termination of Assistance

A BHA'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 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

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When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the BHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the BHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the BHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the BHA must make the accommodation [24 CFR 966.7].

In addition, the BHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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 BHA 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, BHA 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 BHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on BHA.

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, BHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

<u>BHA Policy</u>

The BHA 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"

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may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, BHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other BHA, and will standardize documents. Where feasible and possible, BHA 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 BHA. 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.

BHA Policy

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

The BHA will provide written translations of vital documents for each eligible LEP language group that constitutes five (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 five (5) percent trigger, BHA 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, BHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If BHA 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 BHA's Housing Choice Voucher program and services.

BHA Policy

If it is determined that BHA serves very few LEP persons, and BHA has very limited resources, BHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If BHA determines it is appropriate to develop a written LEP plan, 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.

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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 BHA) 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 public housing 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 definition of 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 allowance for medical expenses, or the allowance for disability assistance expenses.

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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 public housing program, yet an accommodation is needed to provide equal opportunity.

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Chapter 3

ELIGIBILITY

INTRODUCTION

The BHA is responsible for ensuring that every individual and family admitted to the public housing 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 BHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the BHA.
  - 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 BHA's collection and use of family information as provided for in BHA-provided consent forms.
- The BHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the BHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and BHA 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 Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the BHA to deny admission.

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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 public housing 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 5.403 and HUD-50058 IB, p. 13]

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

Family

To be eligible for admission, 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. The BHA has the discretion to determine if any other group of persons qualifies as a family.

BHA Policy

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 BHA's permission, live in a public housing 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

BHA Policy

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

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, the BHA will abide by the court's determination.

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In the absence of a judicial decision or an agreement among the original family members, the BHA will determine which family retains their placement on the waiting list, or will continue in occupancy 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 a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. 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 cohead or spouse.

BHA Policy

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, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].
Spouse means the marriage partner of the head of household.

BHA Policy

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

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

BHA Policy

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

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Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT

[24 CFR 5.603]

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

Joint Custody of Dependents

BHA Policy

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

When more than one applicant or assisted family (regardless of program) are 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 BHA 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.

3-I.G. FULL-TIME STUDENT

[24 CFR 5.603]

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

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent 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

Elderly Persons

An *elderly person* is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age [24 CFR 945.105].

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for

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special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY

[24 CFR 5.403]

Persons with Disabilities

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

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

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the BHA from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

3-I.J. GUESTS

[24 CFR 5.100]

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

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near BHA premises [24 CFR 966.4(f)].

> <u>BHA Policy</u>
>
> A resident family must notify the BHA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period.
>
> A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 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.
>
> 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

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of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

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(c)(2)].

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

Foster children and foster adults that are living with an applicant or resident 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, pp. 13-14].

BHA Policy

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of occupancy standards as outlined in Chapter 5.

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, and illness.

Definitions of Temporarily and Permanently Absent

BHA Policy

Generally an individual who is or is expected to be absent from the public housing 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 public housing 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

BHA Policy

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

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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.

> BHA Policy
> If a child has been placed in foster care, the BHA 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

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

Individuals Confined for Medical Reasons

> BHA Policy
> An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.
> If there is a question about the status of a family member, the BHA 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

> BHA Policy
> The family must request BHA approval for the return of any adult family members that the BHA 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 BHA 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 a 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(c)(5)]. 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.

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BHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, 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. For continued approval, the family must submit a new, written request—subject to BHA verification—at each annual reexamination.

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.

When considering requests for a live-in aide, BHA will determine whether the addition of a new occupant may necessitate a transfer of the family to another unit and whether such units are available [24 CFR 966.4(d)(3)(i)].

The BHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

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

The person has a history of drug-related criminal activity or violent criminal activity; or

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

The person poses a threat to the health and/or safety of the resident or other residents.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the BHA will notify the family of its decision in writing.

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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 public housing 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 960.201]

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 a *low-income* family.

Using Income Limits for Targeting

[24 CFR 960.202(b)]

At least 40 percent of the families admitted to the BHA's public housing program during a BHA fiscal year from the BHA waiting list must be *extremely low-income* families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the BHA's housing choice voucher program during a BHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the BHA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the BHA fiscal year
- Ten percent of waiting list admission to the BHA's housing choice voucher program during the BHA fiscal year

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- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

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 BHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration

[24 CFR 5.508]

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

U.S. Citizens and Nationals

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

> <u>BHA Policy</u>
> Family members who declare citizenship or national status will not be required to provide additional documentation unless the BHA 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 BHA 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,

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

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The BHA 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 admission 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 14 for a discussion of informal hearing procedures.

Ineligible Families

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

A BHA 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 BHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

> <u>BHA Policy</u>
> The BHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.
> When a PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.
> The notice will explain the reasons for the denial 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 BHA. The informal hearing with the BHA 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 14.

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Timeframe for Determination of Citizenship Status

[24 CFR 5.508(g)]

For new occupants joining the resident family the BHA 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 BHA 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.

> BHA Policy
> The BHA 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]

The applicant and all members of the applicant's household age 6 or older must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a household 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 household, 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 household 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 BHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

BHA Policy

> BHA will verify the status of the head of household at the time of application. BHA will verify the status of other household members at the time other eligibility factors are determined.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.230]

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

The BHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the BHA to obtain information that the BHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

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PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits the BHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The BHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking.

This part covers the following topics:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, or stalking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION

[24 CFR 960.204]

BHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the BHA has reasonable cause to believe that a 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.

Where the statute requires that the BHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the BHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].
HUD requires the BHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the BHA to admit an otherwise-eligible family if the household member has completed a BHA-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).

  <u>BHA Policy</u>
  The BHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the BHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the BHA, or the person who committed the crime is no longer living in the household.

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- The BHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

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

- The BHA 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.

  BHA Policy
  In determining reasonable cause, the BHA 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 BHA 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 ADMISSION

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

Criminal Activity

[24 CFR 960.203 (b) and (c)]

Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points.
The BHA is responsible for screening family behavior and suitability for tenancy. In doing so, the BHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

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

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].

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

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of BHA staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 3 years. A conviction for such activity will be given more weight than an arrest or an eviction.

BHA will consider crimes that occurred more than three years ago in circumstances where a household member is required to register as a sex offender and/or in cases where a household member has been convicted of drug-related criminal activity for the production or manufacture of methamphetamine.

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

Previous Behavior

[960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the BHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the BHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the BHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

<u>BHA Policy</u>

The BHA will deny admission to an applicant family if the BHA determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three years.

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three years which may adversely affect the health, safety, or welfare of other tenants.

Has a pattern of eviction from housing or termination from residential programs within the past three years (considering relevant circumstances).

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Owes rent or other amounts to this or any other BHA or owner in connection with any assisted housing program.

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

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

Has engaged in or threatened violent or abusive behavior toward BHA personnel

Abusive or violent behavior towards BHA 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 admission, the BHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the BHA may, on a case-by-case basis, decide not to deny admission.

The BHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the BHA in complying with HUD requirements and BHA 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 BHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The BHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

BHA Policy
The BHA will perform criminal background checks through local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the BHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

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PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

If the BHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the BHA 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)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]
HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the BHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the BHA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the BHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the BHA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If the BHA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The BHA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

Policy B: The BHA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the BHA chooses to obtain such information, it must abide by the HUD requirements for

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records management and confidentiality as described in 24 CFR 960.205(f).

BHA Policy
The BHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the BHA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant

[24 CFR 960.203(c)]

The BHA is responsible for the screening and selection of families to occupy public housing units. The BHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

BHA Policy

The BHA will consider the family's history with respect to the following factors:

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

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability

[PH Occ GB, pp. 47-56]

PHAs have a variety of resources available to them for determination of the suitability of applicants. Generally, PHAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

BHA Policy
In order to determine the suitability of applicants the BHA will examine applicant history for the past three years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

BHA and landlord references for the past three years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the BHA/landlord ever

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began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history the BHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide the BHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from the BHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

BHA and landlord references for the past three years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past three years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

Home visits may be used to determine the applicant's ability to care for the unit.

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3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

BHA Policy

The BHA 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 960.203(c)(3) and (d)]

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

In the event the BHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, PHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

BHA Policy

The BHA 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 admission 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.F) 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

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

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 BHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a

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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 960.203(c)(3)(i)]

HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

BHA Policy

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 public housing unit.

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

Reasonable Accommodation

[PH Occ GB, pp. 58-60]

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

BHA Policy

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

3-III.F. 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 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

> Every contract for contributions shall provide that . . . the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater

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protection than this section for victims of domestic violence, dating violence, or stalking.

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

<u>BHA Policy</u>

The BHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under the BHA's policies. Therefore, if the BHA makes a determination to deny admission to an applicant family on the basis of an unfavorable history, the BHA 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

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certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking
One of the following:

A police or court record documenting the actual or threatened abuse

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 hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, the BHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the BHA determines the family is eligible for assistance, no informal hearing will be scheduled and the BHA will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

BHA Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the BHA 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 public 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.

BHA Confidentiality Requirements

All information provided to the BHA 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.

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3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The BHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a BHA 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 BHA 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)].

> BHA Policy
> If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the BHA will notify the family in writing of the proposed denial and provide the opportunity for the family and the subject of record to request a copy of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the BHA to request and dispute the information within that 10 day period, the BHA 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 hearing process.

Notice requirements related to denying admission 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.F.

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
  > 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 of 2000 [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 of an individual that-

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(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
(ii) is manifested before the individual attains age 22;
(iii) is likely to continue indefinitely;
(iv) 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
(v) reflects the individual'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 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 an impairment; or is regarded as having such an 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

(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

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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

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

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Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the BHA with the information needed to determine the family's eligibility. HUD requires the BHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the BHA must select families from the waiting list in accordance with HUD requirements and BHA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The BHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and 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 BHA to receive preferential treatment.

HUD regulations require that the BHA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the BHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and BHA policies for taking applications, managing the waiting list and selecting families from the waiting list. The BHA's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the BHA's Tenant Selection and Assignment Plan (TSAP).

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 BHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the BHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the BHA will use to keep the waiting list current.
>
> Part III: Tenant Selection. This part describes the policies that guide the BHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the BHA has the information needed to make a final eligibility determination.

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PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the BHA'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 BHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the BHA to determine the format and content of its applications, as well as how such applications will be made available to interested families and how applications will be accepted by the BHA.

BHA Policy

The BHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility.

Families may obtain application forms from the BHA's office during normal business hours. Families may also request – by telephone or by mail – that a form be sent to the family via first class mail.

Completed applications must be returned to the BHA by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the BHA for processing. If an application is incomplete, the BHA will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The BHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard BHA application process.

Disabled Populations

[24 CFR 8; PH Occ GB, p. 68]

The BHA 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 BHA must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the BHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

BHA 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 BHA's policies related to ensuring access to people with limited English proficiency (LEP).

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4-I.D. PLACEMENT ON THE WAITING LIST

The BHA must review each completed application received and make a preliminary assessment of the family's eligibility. The BHA must place on the waiting list families for whom the list is open unless the BHA determines the family to be ineligible. Where the family is determined to be ineligible, the BHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

BHA Policy

If the BHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the BHA will send written notification of the ineligibility determination within 10 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

BHA Policy

The BHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to BHA preference(s) and the date and time their complete application is received by the BHA.

The BHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to BHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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The BHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to BHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The BHA must have policies regarding the type of waiting list it will utilize as well as the 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 public housing, and conducting outreach to ensure a sufficient number of applicants.

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

4-II.B. ORGANIZATION OF THE WAITING LIST

The BHA's public housing waiting list must be organized in such a manner to allow the BHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

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BHA Policy

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

Name and social security number of head of household

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirement, if any

Date and time of application or application number

Household type (family, elderly, disabled)

Admission preference, if any

Race and ethnicity of the head of household

The specific site(s) selected (only if BHA offers site-based waiting lists)

The BHA may adopt one community-wide waiting list or site-based waiting lists. The BHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

BHA Policy

The BHA will maintain one single community-wide waiting list for its developments. Within the list, the BHA will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units).

The BHA will not adopt site-based waiting lists.

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the BHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that BHA maintains a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

BHA Policy

The BHA will not merge the public housing waiting list with the waiting list for any other program the BHA operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The BHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The BHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

BHA Policy

The BHA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where the BHA

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has particular preferences or other criteria that require a specific category of family, the BHA 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 may be reopened at any time. The BHA should publish a notice in local newspapers of general circulation, minority media, and other suitable media outlets that the BHA is reopening the waiting list. Such notice must comply with HUD fair housing requirements. The BHA should specify who may apply, and where and when applications will be received.

BHA Policy

The BHA 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 notice will specify where, when, and how applications are to be received.

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

Local newspapers of general circulation and the Housing Authority of the City of Bremerton website.

4-II.D. FAMILY OUTREACH

[24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

The BHA should conduct outreach as necessary to ensure that the BHA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the BHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the BHA to serve a specified percentage of extremely low income families, the BHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

BHA 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

BHA outreach efforts must be designed to inform qualified families about the availability of units 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

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- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

BHA Policy

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

BHA Policy

While the family is on the waiting list, the family must inform the BHA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.F. UPDATING THE WAITING LIST

HUD requires the BHA to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

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 the BHA's request for information or updates because of the family member's disability, the BHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

BHA Policy

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

To update the waiting list, the BHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the BHA 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 BHA not later than 15 business days from the date of the BHA letter.

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

If the notice is returned by the post office with no forwarding address, the applicant will

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be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the BHA from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if s/he determines the lack of response was due to BHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

BHA Policy

The BHA will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

If the BHA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because the BHA has determined the family is not eligible for admission, 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 hearing regarding the BHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The BHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The BHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The BHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

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

The BHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the BHA's selection policies [24 CFR 960.206(e)(2)]. The BHA's policies must be posted any place where the BHA receives applications. The BHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The BHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

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BHA Policy

When an applicant or resident family requests a copy of the BHA's tenant selection policies, the BHA will provide copies to them free of charge.

4-III.B. SELECTION METHOD

BHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the BHA will use.

Local Preferences

[24 CFR 960.206]

BHAs 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 BHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the BHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

BHA Policy

The BHA will use the following local preferences:

1. Families of federally declared disasters who are Section 8 voucher holders or displaced public housing residents in another jurisdiction will receive preference over other waiting list placeholders for public housing.
2. Date and time of application.

Income Targeting Requirement

[24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during the BHA'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 BHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a BHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the BHA's HCV program during a BHA fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the BHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the BHA fiscal year; (2) ten percent of waiting list admissions to the BHA's housing choice voucher program during the BHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of BHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

BHA Policy

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

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Mixed Population Developments

[24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the BHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The BHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The BHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the BHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The BHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families

[24 CFR 945]

The BHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The BHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the BHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the BHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the BHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

BHA Policy

The BHA does not have designated elderly or designated disabled housing at this time.

Deconcentration of Poverty and Income-Mixing

[24 CFR 903.1 and 903.2]

The BHA's admission policy must be designed to provide for deconcentration of poverty and

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income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the BHA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The BHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a BHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation

[24 CFR 903.2(c)(1)]

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the BHA must comply with the following steps:

Step 1. The BHA must determine the average income of all families residing in all the BHA's covered developments. The BHA may use the median income, instead of average income, provided that the BHA includes a written explanation in its annual plan justifying the use of median income.

> BHA Policy
>
> The BHA will determine the average income of all families in all covered developments on an annual basis.

Step 2. The BHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the BHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

> BHA Policy
>
> The BHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. The BHA must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low income family (30% of median income).

Step 4. The BHA with covered developments having average incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the BHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

A family has the sole discretion whether to accept an offer of a unit made under the BHA's deconcentration policy. The BHA must not take any adverse action toward any eligible family for

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choosing not to accept an offer of a unit under the BHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the BHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

BHA Policy

For developments outside the EIR the BHA will take the following actions to provide for deconcentration of poverty and income mixing:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR
- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the BHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and BHA strategic objectives

Order of Selection

[24 CFR 960.206(e)]

The BHA system of preferences may select families either according to the date and time of application or by a random selection process.

BHA Policy

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the BHA.

When selecting applicants from the waiting list the BHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The BHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and BHA policy.

4-III.C. NOTIFICATION OF SELECTION

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

BHA Policy

The BHA will notify the family by first class mail when it is selected from the waiting list.

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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

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to the BHA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the BHA from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the BHA obtain the information and documentation needed to make an eligibility determination through a private interview. 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 [24 CFR 8.4(a) and 24 CFR 100.204(a)].

BHA Policy

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

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

The interview will be conducted only if the head of household or spouse/cohead 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.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the BHA will proceed with the interview. If the BHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the BHA 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

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interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the BHA will provide translation services in accordance with the BHA's LEP plan.

A family will be considered to have missed the appointment if it is more than fifteen (15) minutes late for any scheduled appointment

A family that neither requests a rescheduled appointment in writing within the time specified below nor appears for the appointment will be subject to termination of housing assistance or denial of subsidy.

If a family is unable to attend a scheduled appointment they must:

- Contact BHA by mail, fax, email, or hand-delivery at least two working days before the date of the originally scheduled appointment; and

- Provide documentation verifying the reason the family is unable to attend the appointment (e.g. verification of hospitalization or imprisonment, police report, etc); and

- In the case of a briefing session or other group meeting, confirm that BHA has another briefing session or other group meeting, as appropriate, already scheduled, and adequate apace to which to reschedule the family.

BHA will reschedule the appointment at a date and time specified by BHA.BHA will only reschedule the appointment one time.

The decision to reschedule will be made at the sole discretion of BHA. BHA will take into consideration extenuating circumstances beyond the control of the family that prevent it from attending a scheduled appointment (for example, a death or medical emergency in the immediate family or a serious traffic accident) and/or the household's history of missed appointments. The participant must provide documentation verifying the reason the family was unable to attend the scheduled appointment or to request a rescheduled appointment (for example, a funeral announcement, verification of hospitalization or imprisonment, or a police report).

4-III.E. FINAL ELIGIBILITY DETERMINATION

[24 CFR 960.208]

The BHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including BHA suitability standards, the BHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for

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admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

BHA Policy

The BHA will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The BHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

BHA Policy

If the BHA determines that the family is ineligible, the BHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The BHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The BHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the BHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the BHA's standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains the BHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by the BHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the BHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be

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approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the BHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. BHA is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the BHA does determine the size of unit the family qualifies for under the occupancy standards, the BHA does not determine who shares a bedroom/sleeping room.

The BHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

BHA Policy

The BHA will use the same occupancy standards for each of its developments.

The BHA's occupancy standards are as follows:

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

Persons of the opposite sex (other than spouses, domestic partners and children under age 5) will not be required to share a bedroom.

Persons of different generations will not be required to share a bedroom.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Foster children will be included in determining unit size.

The BHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10
6	8	12

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5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

BHA Policy

The BHA will consider granting exceptions to the occupancy standards at the family's request if the BHA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the BHA will consider the size and configuration of the unit. In no case will the BHA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the BHA may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

BHA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the BHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the BHA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, 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 BHA will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

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5-II.A. OVERVIEW

The BHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination.
In filling an actual or expected vacancy, the BHA must offer the dwelling unit to an applicant in the appropriate sequence. The BHA will offer the unit until it is accepted. This section describes the BHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the BHA's policies for offering units with accessibility features.

BHA Policy

The BHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

BHA Policy

Under this plan, the first qualified applicant in sequence of the waiting list will be made one offer of a unit of the appropriate size.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

BHA Policy

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

BHA Policy

Applicants may refuse to accept a unit offer for *"good cause." Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the BHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer

specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final

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application) or live-in aide necessary to the care of the principal household member

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move

The unit has lead-based paint and the family includes children under the age of six

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The BHA will require documentation of good cause for unit refusals.

Unit Refusal Without Good Cause

BHA Policy

When an applicant rejects the unit offer without good cause, the BHA will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the BHA opens the waiting list.

5-II.E. ACCESSIBLE UNITS

[24 CFR 8.27]

BHA must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the BHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the BHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the BHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

BHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

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When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the BHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the BHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

When applicable, the BHA's policies for offering units designated for elderly families only or for disabled families only are described in the BHA's Designated Housing Plan.

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Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. The BHA 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 BHA 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 BHA policies for calculating annual income are found in Part I.
> Part II: Adjusted Income. Once annual income has been established HUD regulations require the BHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and BHA policies for calculating adjusted income are found in Part II.
> Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

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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 (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 ACOP, 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(a)(1)].
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.

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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].

BHA Policy

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

Absent Students

BHA Policy

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

BHA Policy

If a child has been placed in foster care, the BHA 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

BHA Policy

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

Individuals Confined for Medical Reasons

BHA Policy

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

If there is a question about the status of a family member, the BHA 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.

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Joint Custody of Children

BHA Policy

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

When more than one applicant or assisted family (regardless of program) are 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 BHA 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

BHA Policy

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

If a responsible agency has determined that another adult is to be brought into the 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.

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

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

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

- An imminent change in circumstances is expected [HCV GB, p. 5-17]

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- 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 BHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

BHA Policy

When BHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud),BHA will calculate projected annual income by annualizing *current* income (and subsequently conducting an interim reexamination if income changes).

For example:

A teacher's assistant currently works nine months annually and receives $1300 per month. During the summer, the teacher's assistant works for the Parks and Recreation Department and makes $600 per month. BHA will calculate annual income by annualizing the current income ($1300 x 12 months). The participant will be responsible for reporting their change in income and an interim reexamination would then be conducted at the end of the school year to recalculate the family's income during the summer months at reduced annualized amount of $7200 ($600 x 12 months).
The tenant family is required to report all changes in income to initiate recalculation of their annual income.

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

HUD strongly recommends the use of up-front income verification (UIV). UIV 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" [PIH Notice 2004-01 Verification Guidance ("VG"), p. 7].

HUD allows PHAs to use UIV information in conjunction with family-provided documents to anticipate income.

BHA Policy
BHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the BHA interview date. In the case where tenant-supplied information is in the form of a pay stub, there must be at least two consecutive pay stubs dated within the last sixty days.

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

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

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If the UIV figure is less than the family's figure, the BHA will use the family's information.

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

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

The BHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When the BHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the BHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The BHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The BHA 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 [24 CFR 5.609(b)(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 is included in annual income.

BHA Policy

following method:

- Multiply hourly overtime wage by the number of hours worked per pay period.
- Multiply weekly wages by 52.
- Multiply bi-weekly wages (paid every other week) by 26.
- Multiply semi-monthly wages (paid twice each month) by 24.
- Multiply monthly wages by 12.

If it is not possible to anticipate annual income through wage conversion using UIV/EIV or third-party verification and the family has had the same employment for at least 1 year, BHA will use the last W-2 to project income. If the family has had the employment for less than 1 year BHA will use on average of the last three months pay stubs.

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For persons who regularly receive bonuses or commissions, BHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, BHA will use the prior year amounts. In either case, the family may provide, and BHA 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, BHA will count only the amount estimated by the employer.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

This type of income (including gifts) is not included in annual income.

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

Children's Earnings [24 CFR 5.609(c)(1)]

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (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 [24 CFR 5.609(c)(17)]

Income from some federal programs is specifically excluded from consideration as income, 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)

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- 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 [24 CFR 5.600(c)(8)(iv)]

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the BHA, 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 BHA's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program

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)].

> BHA Policy
>
> The BHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].
>
> The BHA 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 BHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.
>
> End of participation in a training program must be reported in accordance with the BHA's interim reporting requirements (see chapter on reexaminations).

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.

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

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

Earned Income Disallowance. The earned income disallowance is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE

[24 CFR 960.255]

The earned income disallowance (EID) encourages people 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 960.255 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 public housing 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 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 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 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."

BHA Policy
The BHA defines *prior income,* or *prequalifying income,* as the family member's last

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certified income prior to qualifying for the EID.

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

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.

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

Second 12-Month Exclusion 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.

BHA Policy
During the 48-month eligibility period, the BHA will 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).

Individual Savings Accounts
[24 CFR 960.255(d)]

BHA Policy
The BHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

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

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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].

> BHA Policy
> To determine business expenses that may be deducted from gross income, the BHA 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 BHA to deduct from gross income expenses for business expansion.

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

Capital Indebtedness

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

> BHA Policy
> *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the BHA 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 BHA 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.

> BHA Policy
> Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000 to help a business get started, the BHA will not count as income any withdrawals

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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

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

6-I.G. ASSETS

[24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that the BHA 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 BHA 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 BHA policies related to each type of asset.

General Policies

Income from Assets

The BHA 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 BHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the BHA 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 BHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

BHA Policy
Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the BHA to show why the asset income determination does not represent the family's anticipated asset income.
The BHA will verify and anticipate income for all accounts held in the name of the family and/or their payee.
In circumstances where an account is held in the names of a payee, the family and other individuals residing outside the household who receive services for the payee, no asset income will be assessed to the family.

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Valuing Assets

The calculation of asset income sometimes requires the BHA 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.

  BHA Policy

  Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

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 BHA 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 BHA 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 BHA 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

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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."

BHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the BHA 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 BHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the BHA 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 BHA 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 BHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

BHA Policy

The BHA 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.

BHA Policy

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

Foreclosure or Bankruptcy

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

Family Declaration

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BHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The BHA may verify the value of the assets disposed of if other information available to the BHA 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.

BHA Policy

In determining the value of a checking account, the BHA will use the average monthly balance for the last six months. If a six month average balance is not available, BHA will use the average monthly balance provided. If no average is provided, the current balance will be used.

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

In determining the anticipated income from an interest-bearing checking or savings account, the BHA 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.

BHA Policy

In determining the market value of an investment account, the BHA 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 BHA 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 and PH, p. 121].

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 CFR 5.603(b)]

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- 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.

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

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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].

> BHA Policy
>
> In determining the value of personal property held as an investment, the BHA will use the family's estimate of the value. The BHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
> 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)].

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

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic

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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)].

> BHA Policy
> When a delayed-start payment is received and reported during the period in which the BHA is processing an annual reexamination, the BHA will adjust the tenant rent 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 BHA.
> See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Periodic Payments Excluded from Annual Income

- 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) [24 CFR 5.609(c)(2)]

> BHA Policy
> The BHA 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

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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 BHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident 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 BHA must include in annual income "imputed" welfare income. The BHA must request that the welfare agency inform the BHA when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

For special procedures related to grievance hearings based upon the BHA's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

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

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support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

Alimony and Child Support

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

> BHA Policy
> The BHA will count court-awarded amounts for alimony and child support unless the BHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].
> Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

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

> BHA Policy
> Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.
> Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the BHA. For contributions that may vary from month to month (e.g., utility payments), the BHA will include an average amount based upon past history.

6-I.L. 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)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)], except that in accordance with Section 224 of the FY 2005 Appropriations Act, the portion of any athletic scholarship assistance available for housing costs must be included in annual income [PIH Notice 2005-16].

  > BHA Policy
  > Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included **in** annual income.

- 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)]

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- 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) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the 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

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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)

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

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PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (BHA) must deduct the following amounts from annual income:
> (1) $480 for each dependent;
> (2) $400 for any elderly family or disabled family;
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

BHA Policy

Generally, the BHA 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 BHA 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 BHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The BHA 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)].

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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."

BHA Policy
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 not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

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Families That Qualify for Both Medical and Disability Assistance Expenses

BHA Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the BHA 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.

BHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the BHA 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 BHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

BHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not

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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.

BHA Policy
Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.
Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the BHA 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 expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are 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.

BHA Policy
The BHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the BHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the BHA 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

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."
Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

BHA Policy

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

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

Furthering Education

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

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Being Gainfully Employed

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

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].
The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.
When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the

person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.
The BHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

BHA Policy
For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.
The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

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

Necessary and Reasonable Costs

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

BHA Policy
Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.
To establish the reasonableness of child care costs, the BHA will use the schedule of child care costs from the local welfare agency. Families may present, and the BHA will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS

[24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the BHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

BHA Policy
The BHA has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the BHA.

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TTP Formula

[24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant 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 BHA

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

Welfare Rent [24 CFR 5.628]

BHA Policy
Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

BHA Policy
The minimum rent for this locality is $0.

Optional Changes to Income-Based Rents

[24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the BHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.
The BHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to BHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.
The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

BHA Policy
The BHA chooses not to adopt optional changes to income-based rents.

Ceiling Rents

[24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate

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tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.
Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.
Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

BHA Policy
The BHA chooses not to use ceiling rents.

Utility Reimbursement

[24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the BHA to pay the reimbursement to the family or directly to the utility provider.

BHA Policy
The BHA will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

[24 CFR 5.630]

BHA Policy
The financial hardship rules described below do not apply in this jurisdiction because the BHA has established a minimum rent of $0.

6-III.C. UTILITY ALLOWANCES

[24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the BHA must use the utility allowance applicable to the type of dwelling unit leased by the family.
For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

[24 CFR 8]

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].
See Chapter 2 for policies related to reasonable accommodations.

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Utility Allowance Revisions

[24 CFR 965.507]

The BHA must review its schedule of utility allowances each year. Between annual reviews, the BHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective [PH Occ GB, p. 171].
The tenant rent calculations must reflect any changes in the BHA's utility allowance schedule [24 CFR 960.253(c)(3)].

> BHA Policy
> Unless the BHA is required to revise utility allowances annually on July 1st. Unless the change is greater than 10%, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-III.D. PRORATED RENT 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 BHA must prorate the assistance provided to a mixed family. The BHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the BHA must:

(1) Subtract the TTP from a maximum rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
(3) Multiply the member maximum subsidy by the number of eligible family members.
(4) Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated TTP.
(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

> BHA Policy
> Revised public housing maximum rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.

For policies related to the establishment of the public housing maximum rent see Chapter 16.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS

[24 CFR 960.253]

Flat Rents

[24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

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There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by the BHA is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents

[24 CFR 960.253(a) and (e)]

Once each year, the BHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The BHA must document that flat rents were offered to families under the methods used to determine flat rents for the BHA.

> BHA Policy
> The annual BHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.
>
> A tenant who has chosen income-based rent at their annual reexamination may request to be switched to flat rent once between annual reexaminations.
>
> The BHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The BHA must provide sufficient information for families to make an informed choice. This information must include the BHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the BHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the BHA determines that a financial hardship exists, the BHA must immediately allow the family to switch from flat rent to the income-based rent.

> BHA Policy
> Upon determination by the BHA that a financial hardship exists, the BHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items

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- Such other situations determined by the BHA to be appropriate

  BHA Policy

  The BHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Change in Flat Rents

BHA Policy

Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [PH Occ GB, pp. 137-138].

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the 12 cumulative months of full (100 percent) and phase-in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

Flat Rents and Mixed Families [A&O FAQs]

Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.
If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated flat rent.

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EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

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

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

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

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

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

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

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

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

(6) Welfare assistance payments.

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

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

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

[1] Text of 45 CFR 260.31 follows (next page).

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

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

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

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

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

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

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

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

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

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

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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 BHA 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 BHA'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

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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 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 $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

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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).

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EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive–Disallowance of increase in annual income.

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

Disallowance. Exclusion from annual income.

Previously unemployed includes a person 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 public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

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

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, 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 BHA 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.

(b) *Disallowance of increase in annual income*.

(1) *Initial twelve month exclusion*. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the BHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member 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 of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the BHA 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 as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) *Inapplicability to admission*. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

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(d) *Individual Savings Accounts*. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The BHA must advise the family that the savings account option is available;

(2) At the option of the family, the BHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the BHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the BHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The BHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the BHA may not charge a fee for maintaining the account;

(5) At least annually the BHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the BHA shall pay the tenant any balance in the account, minus any amounts owed to the BHA

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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 BHA 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 BHA, the welfare agency will inform the BHA 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 BHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The BHA 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 BHA'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 BHA by the welfare agency).

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(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 BHA 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 BHA decision.*

(1) Public housing. If a public housing tenant claims that the BHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the BHA denies the family's request to modify such amount, the BHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the BHA determination of the amount of imputed welfare income. The BHA notice shall also state that if the tenant does not agree with the BHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the BHA 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 BHA 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 BHA 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 BHA denies the family's request to modify such amount, the BHA shall give the family written notice of such denial, with a brief explanation of the basis for the BHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the BHA determination, the family may request an informal hearing on the determination under the BHA hearing procedure.

(e) *BHA relation with welfare agency.*

(1) The BHA must ask welfare agencies to inform the BHA 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 BHA 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 BHA 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 BHA. However, the BHA 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 BHA shall be entitled to rely on the welfare agency notice to the BHA of the welfare agency's determination of a specified welfare benefits reduction.

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Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

The BHA 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 tenants must cooperate with the verification process as a condition of receiving assistance. The BHA must not pass on the cost of verification to the family.

The BHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance ("VG") and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary BHA 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 established by the BHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 960.259, 24 CFR 5.230]

The family must supply any information that the BHA or HUD determines is necessary to the administration of the program and must consent to BHA verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

It is required that all adult applicants and tenants 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 BHA 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.

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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 BHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the BHA's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

[VG, p. 11-14]

HUD authorizes the BHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the BHA to use the most reliable form of verification that is available and to document the reasons when the BHA uses a lesser form of verification.

BHA Policy

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

- Up-front Income Verification (UIV) 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 Verification Guidance that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

BHA Policy

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 BHA. The documents must not be damaged, altered or in any way illegible.

The BHA 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 BHA would accept the most recent report.

Print-outs from web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to the BHA and must be signed in the presence of a BHA representative or BHA notary public.

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File Documentation

The BHA 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 BHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

BHA Policy
The BHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the BHA is unable to obtain 3rd party verification, the BHA will document in the family file the reason that third-party verification was not available and will place a photocopy of the original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

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

BHA Policy
The BHA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system
- DSHS Online Verification System
- The Work Number

The BHA must restrict access to and safeguard UIV 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 UIV-generated information. No adverse action can be taken against a family until the BHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the BHA's informal review/hearing processes.

Definition of Substantial Difference

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available," HUD recommends using $200 per

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month as the threshold for a substantial difference. The BHA will use the $200 per month as the threshold for a substantial difference.

See Chapter 6 for the BHA's policies on the definition of substantial difference and the use of UIV to project annual income and for the BHA's threshold for substantial difference.

When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

[24 CFR 5.236(b)]

When there is a substantial difference between the information provided by the UIV source and the family, the BHA 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 resident families. HUD requires the BHA to use the EIV system when available. The following policies will apply when the BHA 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.

> BHA Policy
> The BHA 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, and to verify that families claiming zero income are not receiving income from any of these sources.

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TID reports will be retained in resident files with the applicable annual or interim reexamination documents.

When the BHA 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 15, 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.

BHA Policy

The BHA 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 BHA will begin with the largest discrepancies.

When the BHA determines that a resident appearing on the ETR has not concealed or under-reported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents 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 BHA will request third-party written verification of the income in question.

When the BHA 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 15, Program Integrity.

EIV Identity Verification

The EIV system verifies resident 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 resident fails, a message will be displayed within the EIV system and no income information will be displayed.

BHA Policy

The BHA will identify residents whose identity verification has failed as part of the annual reexamination process.

The BHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the BHA determines that discrepancies exist due to BHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

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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 BHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

BHA Policy

The BHA 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 BHA 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 BHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the BHA will request third-party oral verification.

The BHA 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, BHA 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 BHA 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 BHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the BHA will use any information provided orally in combination with reviewing family-provided documents (see below).

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the BHA will use the information from documents on a provisional basis. If the BHA 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 BHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the BHA's interim reexamination policy.

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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 BHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The BHA may 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].

> BHA Policy
> The BHA 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 $500 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The BHA 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 BHA will rely upon review of documents when the BHA determines that a third party's privacy rules prohibit the source from disclosing information.

> BHA Policy
> The BHA will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.
>
> If the family cannot provide original documents, the BHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.
>
> The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].
>
> The BHA will document, in the family file, the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]

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7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

BHA Policy

If the BHA has determined that third-party verification is not available or not required, the BHA will use documents provided by the family as verification.

The BHA may also review documents when necessary to help clarify information provided by third parties. In such cases the BHA will document in the file how the BHA arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

BHA Policy

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

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

The self-certification must be made in a format acceptable to the BHA 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 BHA representative or BHA notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

BHA Policy

The BHA 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.

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If none of these documents can be provided and at BHA'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 BHA and be signed in the presence of a BHA representative or BHA notary public.

Legal identity will be verified on an as needed basis.

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.

BHA Policy

The BHA 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
- 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, BHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. BHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

BHA Policy

The BHA 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, BHA will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously assisted occupancy. The name shown on the social security number verification will be the name used on all BHA documents.

If any family member obtains an SSN after admission to the program, the new SSN must be

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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 aids, 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.

BHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, BHA 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.

BHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

BHA Policy

Certification by the head of household is normally sufficient verification. If BHA has reasonable doubts about a marital relationship, BHA will require the family to document the marriage. Such documentation could include:

- 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).

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Separation or Divorce

BHA Policy

Certification by the head of household is normally sufficient verification. If BHA has reasonable doubts about a separation or divorce, BHA will require the family to document the divorce, or separation. Such documentation could include:

- 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

BHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

BHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

BHA Policy

The BHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead.
- The family reports childcare expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

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Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

BHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, BHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.

If BHA cannot verify at least one of these exemption criteria, BHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, BHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

BHA Policy

The BHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

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Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

7-II.F. DOCUMENTATION OF DISABILITY

The BHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. BHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)].BHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If BHA receives a verification document that provides such information, BHA will not place this information in the tenant file. Under no circumstances will BHA 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) after being determined to be a disabled individual 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].

BHA Policy

For family members claiming disability who receive disability benefits from the SSA, BHA 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, BHA 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), BHA 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

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applicant or participant receives the benefit verification letter they will be required to provide it to BHA.

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.

BHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

[24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and BHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The BHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

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BHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless BHA 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.

BHA 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, BHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).
The BHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The BHA must verify any preferences claimed by an applicant.

BHA Policy
Families of federally declared disasters who are Section 8 voucher holders or displaced public housing residents in another jurisdiction will receive preference over other waiting list placeholders for public housing.

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 BHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

BHA Policy

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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

BHA Policy

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

- An audited financial statement for the previous fiscal year if an audit was conducted. 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 BHA 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, BHA 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, BHA 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, BHA 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

BHA Policy

To verify the SS/SSI benefits of applicants, BHA 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),BHA 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 BHA.

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To verify the SS/SSI benefits of participants, BHA 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, BHA 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)BHA 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 BHA.

7-III.D. ALIMONY OR CHILD SUPPORT

BHA Policy

The way BHA 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, BHA 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.

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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. BHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

BHA Policy

The BHA will verify the value of assets disposed of only if:

- The BHA 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 BHA verified this amount. Now the person reports that she has given this $10,000 to her son. BHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, BHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

BHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, BHA 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.

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7-III.G. RETIREMENT ACCOUNTS

BHA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, BHA 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, BHA 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, BHA 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 BHA must obtain verification for income exclusions only if, without verification, BHA 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, BHA will confirm that BHA 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.

BHA Policy

The BHA 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, BHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

BHA Policy

The BHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

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Families reporting zero income will be required to complete a BHA-approved zero income worksheet and income certification on a quarterly basis.
After a household has been reporting zero income for a period of six months or more, a BHA representative will conduct a home visit in conjunction with the zero income worksheet and income certification.

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 BHA 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 BHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The BHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

BHA Policy

The BHA 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 BHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The BHA 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

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In addition, the BHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The BHA 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 BHA'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.

> BHA Policy
> 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

> BHA Policy
> When anticipated costs are related to on-going payment of medical bills incurred in past years, the BHA 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

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BHA Policy
The BHA 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

BHA Policy

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus
If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the BHA 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 BHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The BHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

BHA Policy
The BHA 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.).

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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.

BHA Policy
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 child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the BHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The BHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

BHA Policy
The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

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Pursuing an Eligible Activity

The BHA 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.

BHA Policy

Information to be Gathered

The BHA 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 BHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the BHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the BHA any reports provided to the other agency.

In the event third-party verification is not available, the BHA will provide the family with a form on which the family member must record job search efforts. The BHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The BHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The BHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

BHA Policy

The BHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The BHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The BHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members

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who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

BHA Policy

The actual costs the family incurs will be compared with the BHA'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 BHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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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.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an 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 of pay 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.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings 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.			
	Use of HUD systems, when 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, bonuses, overtime, company 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.

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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 source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices 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 request 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, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain 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 printout 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.

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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 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.
Pensions	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.

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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 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 asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes 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 RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant 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 possible 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.)

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Exhibit 7-2: Summary of Documentation Requirements for Noncitizens

[HCV GB, pp. 5-9 and 5-10)

<table>
<tr><td colspan="2">

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the BHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

</td></tr>
<tr><td colspan="2">

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.

</td></tr>
<tr><td colspan="2">

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

</td></tr>
<tr><td>

- 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"

</td><td>

- 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).

</td></tr>
<tr><td>

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

</td><td>

Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

</td></tr>
<tr><td colspan="2">

- 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*

</td></tr>
</table>

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Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between the BHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the BHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the BHA may require additional inspections in accordance with BHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the BHA's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes the BHA's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the BHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as the BHA's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

BHA Policy

After unit acceptance but prior to occupancy, a BHA representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

BHA Policy

When families attend the lease orientation, they will be provided with:

A copy of the lease

A copy of the BHA's grievance procedure

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A copy of the house rules

A copy of the BHA's schedule of maintenance charges

A copy of the pamphlet *Protect Your Family From Lead in Your Home*

A copy of *Things You Should Know* (HUD-1140-OIG)

Topics to be discussed will include:

Applicable deposits and other charges

Review and explanation of lease provisions

Unit maintenance and work orders

The BHA's reporting requirements

Explanation of occupancy forms

Community service requirements

Family choice of rent

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the BHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one BHA unit to another.

The lease must state the composition of the household as approved by the BHA (family members and any BHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

BHA Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the BHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to BHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the BHA [24 CFR 966.4(a)(3)].

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Modifications to the Lease Form

The BHA may modify its lease from time to time. However, the BHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The BHA must also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

BHA Policy

The family will have 30 days to accept and sign the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

BHA Policy

When the BHA proposes to modify or revise schedules of special charges or rules and regulations, the BHA will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

BHA Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and BHA will be required to initial and date the change.

If a new household member is approved by the BHA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and BHA will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are

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contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS

[24 CFR 966.4(b)(5)]

At the option of the BHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the BHA. The BHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

BHA Policy

Residents must pay a security deposit to the BHA at the time of admission. The amount of the security deposit will be specified in the lease.

The BHA will hold the security deposit for the period the family occupies the unit. The BHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the BHA will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The BHA will provide the resident with a written list of any charges against the security deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged, the BHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, the BHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments

[24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the BHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the BHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

BHA Policy

The tenant rent is due and payable at the BHA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the BHA will notify the family of the new amount and

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the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of the BHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the BHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the BHA grievance procedures. The BHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BHA Policy

If the family fails to pay their rent by the fifth day of the month, and the BHA has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises. Payments made after the 14-day notice has been issued will only be accepted in the form of a money order or cashier's check.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee as determined by the lease will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the BHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee as determined by the lease will be charged to the family. The fee will be due and payable 14 days after billing.

Excess Utility Charges

If the BHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the BHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and

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inform the family of their right for a hearing under the BHA grievance procedures. The BHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BHA Policy

When applicable, families will be charged for excess utility usage according to the BHA's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the BHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If the BHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the BHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the BHA grievance procedures. The BHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BHA Policy

When applicable, families will be charged for maintenance and/or damages according to the BHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the BHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

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PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require the BHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the BHA may require additional inspections, in accordance with BHA Policy. This part contains the BHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections

[24 CFR 966.4(i)]

The lease must require the BHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the BHA and the resident, must be provided to the tenant and be kept in the resident file.

> BHA Policy
>
> Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections

[24 CFR 966.4(i)]

The BHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the BHA. The BHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

> BHA Policy
>
> When applicable, the BHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (PHAS), the BHA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)].

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

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BHA Policy

Supervisory quality control inspections will be conducted in accordance with the BHA's maintenance plan.

Special Inspections

BHA Policy

BHA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

Other Inspections

BHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to the BHA's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The BHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the BHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

BHA Policy

The BHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 48 hours written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the BHA to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

The BHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the BHA must leave a written statement showing the date,

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time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

BHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the BHA at least 24 hours prior to the scheduled inspection. The BHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The BHA may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

BHA Policy

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

8-II.D. INSPECTION RESULTS

The BHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs

[24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the BHA of the damage, and the BHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the BHA must charge the family for the reasonable cost of repairs. The BHA may also take lease enforcement action against the family.

If the BHA cannot make repairs quickly, the BHA must offer the family standard alternative accommodations. If the BHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

BHA Policy

When conditions in the unit are hazardous to life, health, or safety, the BHA will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

Any condition that jeopardizes the security of the unit

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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

Non-emergency Repairs

BHA Policy

The BHA will correct non-life threatening health and safety defects within 10 business days of the inspection date. If the BHA is unable to make repairs within that period due to circumstances beyond the BHA's control (e.g. required parts or services are not available, weather conditions, etc.) the BHA will notify the family of an estimated date of completion.

The family must allow the BHA access to the unit to make repairs.

Resident-Caused Damages

BHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

BHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the BHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

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Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

The BHA is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. PHAs must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the BHA must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the BHA to offer all families the choice of paying income-based rent or flat rent at least annually. The BHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

> Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.
>
> Part II: Reexaminations for Families Paying Flat Rents. This part contains the BHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the BHA's policies for conducting annual updates of family composition for flat rent families.
>
> Part III: Interim Reexaminations. This part includes HUD requirements and BHA policies related to when a family may and must report changes that occur between annual reexaminations.
>
> Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the BHA must recalculate the tenant rent. 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.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

[24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the BHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the BHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years

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[24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.
For all residents of public housing, whether those residents are paying income-based or flat rents, the BHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.
The BHA is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the BHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].
This part contains the BHA's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The BHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

> BHA Policy
> Generally, the BHA will schedule annual reexaminations to coincide with the family's anniversary date. The BHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective 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 transfers to a new unit, the BHA will perform a new annual reexamination, and the anniversary date will be changed.
> The BHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The BHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the BHA.

> BHA Policy
> Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the BHA to request a reasonable accommodation.
> Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.
> If the family is unable to attend a scheduled interview, the family should contact the BHA in advance of the interview to schedule a new appointment. If a family fails to attend scheduled interviews without BHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.
> An advocate, interpreter, or other assistant may assist the family in the interview process.

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9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

BHA Policy

Families will be asked to submit all required information (as described in the reexamination notice) 30 days prior to the reexamination appointment. The required information will include a BHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

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

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The BHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

BHA Policy

Each household member age 16 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, the BHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

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See Chapter 11 for the BHA's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the BHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

BHA Policy

In general, an *increase* in the tenant 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 the BHA 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 BHA, 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 underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the BHA 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 BHA.

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 BHA by the date specified, and this delay prevents the BHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the BHA offer all families the choice of paying income-based rent or flat rent at least annually. The BHA's policies for offering families a choice of rents are located in Chapter 6.

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For families who choose flat rents, the BHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The BHA is only required to provide the amount of income-based rent the family might pay in those years that the BHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the BHA must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains the BHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

BHA Policy

For families paying flat rents, the BHA will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

BHA Policy

In conducting full reexaminations for families paying flat rents, the BHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the BHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the BHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The BHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

BHA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the BHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the

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redetermination of rent and family composition [24 CFR 966.4(c)(2)].

BHA Policy
Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the BHA to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the BHA in advance of the interview to schedule a new appointment. If a family fails to attend scheduled interviews without BHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

Change in Unit Size
Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The BHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks
Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

BHA Policy
Each household member age 16 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service
For families who include nonexempt individuals, the BHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].
See Chapter 11 for the BHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

[24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and BHA policies dictate what kinds of information about changes in family circumstances must

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be reported, and under what circumstances the BHA must process interim reexaminations to reflect those changes. HUD regulations also permit the BHA to conduct interim reexaminations of income or family composition at any time.
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 change. The BHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and BHA policies describing what changes families are required to report, what changes families may choose to report, and how the BHA will process both BHA- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The BHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the BHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

> BHA Policy
> All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).
>
> The BHA 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 BHA approval. However, the family is required to promptly notify the BHA of the addition [24 CFR 966.4(a)(1)(v)].

> BHA Policy
> The family must inform the BHA of the birth, adoption or court-awarded custody of a child within 10 business 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 BHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The BHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which BHA consent will be given or denied. Under such policies, the factors considered by the BHA may include [24 CFR 966.4(d)(3)(i)]:

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- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The BHA's obligation to make reasonable accommodation for handicapped persons.

BHA Policy
Families must request BHA 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 a total of 30 cumulative calendar days during any 12 month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the BHA prior to the individual moving into the unit.

The BHA will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in Chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the BHA. Exceptions will be made on a case-by-case basis.

The BHA will not approve the addition of a new family or household member unless the individual meets the BHA's eligibility criteria (see Chapter 3).

If the BHA determines that an individual does not meet the BHA's eligibility criteria as defined in Chapter 3, the BHA 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 BHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

BHA Policy
If a family member ceases to reside in the unit, the family must inform the BHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the BHA within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the BHA 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 BHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

BHA Policy
This section only applies to families paying income-based rent. Families paying flat rent

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are not required to report changes in income or expenses.

BHA-initiated Interim Reexaminations

BHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the BHA. They are not scheduled because of changes reported by the family.

BHA Policy
The BHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the BHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, the BHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the BHA 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 BHA will conduct an interim reexamination.

The BHA 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 BHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(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 960.257(b)].

Required Reporting

HUD regulations give BHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

BHA Policy

BHA will conduct interim reexaminations when families have an increase in income of at least $200 per month. Interim reexaminations are not conducted on income increases of less than $200 per month unless:

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- The increase in income is because a person with income joins the household.
- The increase in household income is the result of *new* income.
- A decrease in the same source of income previously resulted in a reduction in tenant rent (i.e., a tenant's hours were reduced from 30 hours per week to 20 hours a week and BHA conducted an interim reexamination to decrease the tenant portion of rent; a month later the hours are increased to 25 hours per week. In this instance an interim reexamination will be conducted to include the increase in hours).

Families will be required to report all increases in income/assets within 10 business days of receipt of the increased income (i.e. first paycheck, first increased social security check, etc.).

Decreases in Income:

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. BHA must calculate the change if a decrease in income is reported. If a tenant has a decrease in income or change in family composition that may result in a decrease in tenant rent they may report this change to the housing authority. Changes must be reported by the **20th** of the month for the change to be effective the first of the month following that in which the change is reported. If the decrease is reported after the 20th of the month, the decrease in tenant rent will be effective the first of the month following the upcoming month (i.e. if the change is reported July 25 then the decrease in rent will be effective September 1)

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 960.257(b)]. The BHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

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.

BHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the BHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, the BHA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

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Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

BHA Policy
The family must notify BHA of changes in writing using a BHA-approved form.
Generally, the family will not be required to attend an interview for an interim reexamination. However, if the BHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the BHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the BHA. This time frame may be extended for good cause with BHA approval. The BHA will accept required documentation by mail, by fax, or in person.

Effective Dates

The BHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

BHA Policy

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

BHA will conduct interim reexaminations when families have an increase in income of at least $200 per month. Interim reexaminations are not conducted on income increases of less than $200 per month unless:

- The increase in income is because a person with income joins the household.
- The increase in household income is the result of *new* income.
- A decrease in the same source of income previously resulted in a

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reduction in tenant rent (i.e. a tenant's hours were reduced from 30 hours per week to 20 hours a week and MCHA conducted an interim reexamination to decrease the tenant portion of rent; a month later the hours are increased to 25 hours per week. In this instance an interim reexamination will be conducted to include the increase in hours).

Families will be required to report all increases in income/assets within 10 business days of receipt of the increased income (i.e. first paycheck, first increased social security check, etc.).

Decreases in Income:

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. BHA must calculate the change if a decrease in income is reported. If a tenant has a decrease in income or change in family composition that may result in a decrease in tenant rent they may report this change to the housing authority. Changes must be reported by the **20th** of the month for the change to be effective the first of the month following that in which the change is reported. If the decrease is reported after the 20th of the month, the decrease in tenant rent will be effective the first of the month following the upcoming month (i.e. if the change is reported July 25 then the decrease in rent will be effective September 1)

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 IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the BHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. 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.

9-IV.B. CHANGES IN UTILITY ALLOWANCES

[24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the BHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

BHA Policy
Unless the BHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

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9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the BHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].
When the BHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the BHA's schedule of Utility Allowances for families in the BHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the BHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the BHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the BHA's grievance procedure [24 CFR 966.4(c)(4)].

> BHA Policy
> The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the BHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the BHA may discover errors made by the BHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

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Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the BHA's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the BHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the BHA.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

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PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the BHA’s pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person’s disability and his or her need for the animal [PH Occ GB, p. 179].

A BHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A BHA’s refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation

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- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

PHAs have the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

BHA Policy

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and the BHA approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

The resident/pet owner will be required to verify their need for the animal to assist, support or provide service to persons with disabilities. A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal.

Pet rules will not be applied to animals that assist, support or provide service to persons with disabilities. This exclusion applies to service animals as reasonable accommodation for persons with disabilities. This exclusion applies to such animals that reside in public housing.

The resident/pet owner will not have to pay the pet deposit or other fees under BHA's pet policy for a service animal or a companion animal. However, the person must comply with those other aspects of the pet policy that do not unreasonably interfere with the use of the animal to address the need arising from the disability. For example:

- A disabled tenant moving into BHA's housing who does not already have a long term bond with an animal and may need a companion animal but will probably not need an animal that violates the pet policy's restrictions on size and breed.
- A disabled person needing a companion animal who already has one when he or she moves into BHA's housing may already have a long-term bond with the animal that is necessary to continue for reasons related to the disability. In this case, the animal's size or breed will be considered on a case by case basis.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a BHA may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

BHA Policy

- Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.
- Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

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- Residents must comply with limited pet ownership requirements such as animal health maintenance, licensing, and disposal of animal waste.
- When a resident's care or handling of an assistance animal violates these policies, the PHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the PHA determines that no such accommodation can be made, the PHA may withdraw the approval of a particular assistance animal.
- A disabled tenant must still register the animal under the BHA pet policy
- A disabled tenant is still responsible for the animal's behavior, care and sanitation so as to comply with the lease standards.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

BHA Policy

ALL CATS AND DOGS MUST BE REGISTERED AND APPROVED PRIOR TO BEING BROUGHT ONTO THE PREMISES. The pet owner must enter into a pet agreement with BHA. The registration process consists of:

- Basic information about the pet
- Certificate signed by license veterinarian or state/local entity that the pet has received all inoculations required by local law and that the pet has no communicable disease(s) and is pest-free
- Proof of city licensing
- Proof of Spay/Neuter. All female dogs over the age of 6 months and female cats over the age of 5 months must be spayed. All male dogs over the age of 8 months and all male cats over the age of 10 months must be neutered. In the case of underage animals, within 30 days of the pet reaching age requirements outlined above. If health problems prevent such spaying or neutering, a veterinarian's certificate will be required to allow the pet to become a resident of the community.
- Color photo of the pet no less than 3x3 in size
- Execution of a pet agreement with BHA stating that the tenant acknowledges complete responsibility for the care and cleaning of the pet will be required.

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- Residents must be in good standings with BHA before a pet agreement will be executed.
- Payment of a $150.00 deposit and $50.00 non-refundable fee (Service Animals Excluded)

No pet shall be approved or allowed onto the premises until completion of the registration.

Failure to appropriately register a dog or cat and pay the required security deposit shall be cause for termination of the lease.

Refusal to Register Pets

BHA Policy

If BHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days stating the reason for denial and their right to appeal the decision in accordance with BHA's grievance procedures. The notification will be served in accordance with HUD notice requirements.

BHA will refuse to register the pet if:

- The pet is not a 'common household pet' as defined in this policy
- Keeping the pet would violate any pet restrictions listed in this policy;
- The pet owner fails to provide complete pet registration information
- The pet owner fails to update the registration annually
- Complaints have been received by other tenants about the pet
- BHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with the provisions of the lease
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- The notice of refusal may be combined with a notice of pet violation

Pet Agreement

BHA Policy
Residents who have been approved to have a pet must enter into a Pet Agreement with BHA.

The resident will certify, by signing the pet agreement that the resident will adhere to the following rules:

- Agree that the resident is responsible and liable for all damages caused by their pet(s);

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- All complaints of cruelty and all dog bites will be referred to animal control or applicable agency for investigation and enforcement;

- All common household pets are to be fed inside the apartment. Feeding is not allowed on porches, sidewalks, patios or other outside areas;

- Residents shall not feed any stray animals; doing so, or keeping stray or unregistered animals, will be considered having a pet without permission;

- No animals may be tethered or chained outside or inside the dwelling unit under any circumstances;

- Pets must be maintained within a resident's unit. When outside the dwelling unit, all pets must be on a leash, carried, in a cage or animal transport enclosure and under the control of a responsible individual at all times;

- All fecal matter deposited by the pet(s) must be promptly and completely removed from any common area. Failure to do so will result in a Pet Waste Removal charge of $25.00. All animal waste or the litter from litter boxes shall be picked up immediately by the pet owner, disposed of in sealed plastic trash bags, and placed in a trash bin. Litter shall not be disposed of by flushing through a toilet;

- Litter boxes shall be stored inside the resident's dwelling unit or in animal enclosures maintained within the dwelling units AND must be removed and/or replaced regularly. Failure to do so will result in a Pet Waste Removal charge;

- The Resident/ Pet Owner shall be responsible for the removal of waste from any animal or pet exercise area by placing it in a sealed plastic bag and disposing of it in an outside trash bin immediately;

- The resident/pet owner shall take adequate precautions to eliminate any animal or pet odors within or around the unit and to maintain the unit in a sanitary condition at all times;

- Mandatory implementation of effective flea control by measures that produce no toxic hazard to children who may come into contact with treated animals**;**

- The right of management to enter dwelling unit when there is evidence that an animal left alone is in danger or distress, or is creating a nuisance;

- The right of management to seek impoundment and sheltering of any animal found to be maintained in violation of housing rules, pending resolution of any dispute regarding such violation, at owner's expense. The resident shall be responsible for any impoundment fees, and BHA accepts no responsibility for pets so removed**;**

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- That failure to abide by any animal-related requirement or restriction constitutes a violation of the "Resident Obligations" in the resident's Lease Agreement;

- Residents will prevent disturbances by their pets that interfere with the quiet enjoyment of the premises of other residents in their units or in common areas. This includes, but is not limited to, loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities;

- Residents/pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited;

- Dogs may only be kept in dwelling units with an enclosed yard space. Pet owners may not alter their unit or patio to accommodate an animal.

10-II.C. STANDARDS FOR PETS

[24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the BHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

BHA's may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

BHA Policy

No types of pets other than the following may be kept by a resident. The following types and qualifications are consistent with the applicable State and local law.

1. Dogs

Maximum Number: 1 (ONE)
Maximum adult weight: 25 pounds
Must be non-aggressive breed
Must be spayed or neutered
Must have all required inoculations
Must be licensed as specified now or in the future by State law and local ordinance
Any litter resulting from the pet must be removed immediately from the unit

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2. Cats – Domesticated
Must be spayed or neutered
Must have all required inoculations
Must be trained to use a litter box or other waste receptacle
Must be licensed as specified now or in the future by State law and local ordinance
Any litter resulting from the pet must be removed from the unit immediately

3. Birds (canaries, finches, parakeets, cockatiels, small parrots, etc.. **NO EXOTIC BIRDS**
Must be in enclosed cage at all times

4. Fish
Maximum aquarium size: 30 gallons
Must be maintained on an approved stand

5. Rodents (rabbit, guinea pig, hamster, gerbil ONLY)
Must be enclosed in an acceptable cage at all times.

Pet Restrictions

BHA Policy

The following animals are not permitted:

- Domesticated dogs that exceed 25 pounds. (Animals certified to assist persons with disabilities are exempt from this weight limitation);
- Animals who would be allowed to produce offspring for sale;
- Wild, feral, or any other animals that are not amenable to routine human handling.
- Any poisonous animals of any kind;
- Fish in aquariums exceeding 30 gallons in capacity;
- Non-human primates;
- Animals whose climatological needs cannot be met in the unaltered environment of the individual dwelling unit;
- Pot-bellied pigs;
- Ferrets or other animals whose natural protective mechanisms pose a risk of serious bites and/or lacerations to small children;
- Hedgehogs or other animals whose protective instincts and natural body armor produce a risk of serious puncture injuries to children;
- Chicks, turtles, or other animals that pose a significant risk of salmonella infection to those who handle them;
- Pigeons, doves, mynahs, psittacines, and birds of other species that are hosts to the organisms that cause psittacosis in humans;
- Snakes or other kinds of reptiles;
- Insects and Arachnids.

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Number of Pets

BHA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Other Requirements

BHA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with BHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

BHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs must be kept on a leash or carried and under the control of the resident or other responsible individual at all times;

A common household pet must be effectively restrained and under the control of a responsible person when passing through a common area, from the street to the apartment, etc;

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Designated Pet/No-Pet Areas

[24 CFR 5.318(g), PH Occ GB, p. 182]

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the

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applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

BHA Policy
The following areas are designated as no-pet areas:

BHA playgrounds
BHA day care centers
BHA management offices
BHA community centers
BHA recreation center areas
BHA laundry rooms
BHA Ballfields

Cleanliness

BHA Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by the BHA.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

BHA Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

BHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

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Pet Care

BHA Policy

No pet (excluding fish) shall be left unattended in any unit for a period in excess of 24 hours;

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage PHA property;

No animals may be tethered or chained inside or outside the dwelling unit at any time;

All residents/pet owners shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet;

Residents/pet owners must recognize that other residents may have chemical sensitivities or allergies related to pets, or may be easily frightened or disoriented by animals. Pet owners must agree to exercise courtesy with respect to other residents;

Animals must not be a nuisance or a threat to the health or safety of BHA employees, postal workers, agency employees, the public or other residents in the community by reason of noise, unpleasant odors, or other objectionable situations;

Pet owners will be totally liable for all damages or injuries cause by their pet;

Breeding of pets is prohibited;

Any pet owner found to be involved in animal cruelty or neglect will have their pet agreement terminated;

If maintenance is requested or scheduled, either the pet owner must be at home at the time of service to restrain pets or pets must be confined. Failure to confine pets may be cause for delay of maintenance service, additional costs to the pet owner in the event of rescheduled maintenance, and termination of either the pet agreement or residential lease. BHA will not be liable for any pet who escapes due to failure of the owner to properly confine the pet;

Pet owners must agree to control noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing units or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Responsible Parties

BHA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the BHA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

BHA Policy

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Residents may not care for (pet sit) any animal on the premises or in the unit which is not been approved by BHA as the tenants pet;

Residents are prohibited from feeding or harboring stray animals;

This rule excludes visiting pet programs sponsored by a humane society or other non-profit organization and approved by BHA;

State or local laws governing pets temporarily in dwelling accommodations shall prevail.

Pet Rule Violations

BHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

The authorization for a common household pet may be revoked at any time subject to the Housing Authority's grievance procedure if the pet becomes destructive or a nuisance to others, or if the tenant fails to comply with this policy.

Residents who violate these rules are subject to:

Mandatory removal of the pet from the premises within 10 days of notice by the Housing Authority; or if for a threat to health and safety, removal within 24 hours of notice;

Lease termination proceedings;

The resident will be responsible for all reasonable expenses directly related to the presence of the animal or pet on the premises, including the cost of repairs and replacement in the apartment, and the cost of animal care facilities if needed;

These charges are due and payable within 30 days of written notification.

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Notice for Pet Removal

BHA Policy

If the pet owner and the BHA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the BHA, the BHA may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the BHA's determination of the pet rule that has been violated
- The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

BHA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the BHA after reasonable efforts cannot contact the responsible party, the BHA may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

BHA Policy

The BHA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

BHA Policy

The BHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the BHA to place the pet in a shelter facility, the cost will be the

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responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

BHA Policy

BHA does not have any designated housing at this time.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the BHA's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

A BHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A BHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The BHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

BHA Policy
Tenants with animals must pay a refundable pet deposit of $150;

Deposit must be paid in full before the pet is approved;

BHA reserves the right to change or increase the required deposit by amendment to these rules.

BHA will refund the Pet Deposit of $150 to the tenant, less any damage caused by the pet to the dwelling unit, within a reasonable time only after the tenant moves from the project or transfers to another unit without a pet;

The refundable pet deposit will be placed in an escrow account. BHA will refund the unused portion of the deposit to the resident within a reasonable time after the resident moves from the project or transfers to another unit without the pet..

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BHA will provide the tenant or designee identified above with a written list of any charges against the pet deposit. If the tenant disagrees with the amount charged to the pet deposit, BHA will provide a meeting to discuss the charges.

All reasonable expenses incurred by BHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including, but not limited to:

The cost of repairs and replacements to the resident's dwelling unit;

Fumigation of the dwelling unit;

Common areas of the project if applicable;

The expense of flea de-infestation shall be the responsibility of the resident;

If the tenant is in occupancy when such costs occur, the tenant shall be billed for such costs as a current charge. Pet deposits will not be applied to the costs of pet related damages during occupancy;

If such expenses occur as the result of a move-out inspection, they will be deducted from the pet deposit. The resident will be billed for any amount that exceeds the pet deposit;

Pet Deposits are not a part of rent payable by the resident.

Refund of Deposit

BHA Policy

The BHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 14 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The BHA will provide the resident with a written list of any charges against the pet deposit within 14 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the BHA will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

PHAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

BHA Policy

BHA will charge a non-refundable nominal fee of $50 for each household with a pet;

This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

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Landscaping costs
Pest control costs
Insurance costs
Clean-up costs

10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

BHA Policy

All reasonable expenses incurred by the BHA 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

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the BHA's ability to impose charges for house pet rule violations. However, charges for violation of BHA pet rules may be treated like charges for other violations of the lease and BHA tenancy rules.

BHA Policy

A separate pet waste removal charge of $25.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

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Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all non-exempt adults living in public housing.

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

> Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.
>
> Part II: BHA Implementation of Community Service. This part provides BHA policy regarding BHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with BHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the BHA Plan must contain a statement of the how the BHA will comply with the community service requirement, including any cooperative agreement that the BHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the BHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the BHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

> BHA Policy
>
> An individual may not skip a month and then double up the following month, unless

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special circumstances warrant it. The BHA will make the determination of whether to permit a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify the BHA in writing within 5 business days of the circumstances becoming known. The BHA will review the request and notify the individual, in writing, of its determination within 10 business days. The BHA may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b)]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

  BHA Policy

  The BHA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.
- Meets the requirements for being exempted from having to engage in a work activity under the state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the BHA is located, including a state-administered welfare-to-work program; or
- Is in a family receiving assistance under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the BHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service [PH Occ GB, p. 174]

Community service is volunteer work which includes, but is not limited to:

- Work at a local institution including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization that serves BHA residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, PAL, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations
- Work at the BHA to help improve physical conditions
- Work at the BHA to help with children's programs
- Work at the BHA to help with senior programs

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- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems, serving as an officer in a resident organization, serving on the resident advisory board
- Caring for the children of other residents so they may volunteer

NOTE: Political activity is excluded for purposes of eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b)]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeships (formal or informal), or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Examples of these programs include:

- Participating in the Family Self-Sufficiency and/or Keys to a Better Life Programs and being current in the steps outlined in the Individual Training and Service Plan.

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

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Notification Requirements

[24 CFR 960.605(c)(2)]

The BHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for BHA verification of exempt status. The BHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt.

BHA Policy

The BHA will provide the family with a written description of the community service requirement.

On an annual basis, at the time of lease renewal, the BHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE

[24 CFR 960.605(c)(3)]

The BHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

BHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the BHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the BHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

BHA Policy

At least 60 days prior to lease renewal, the BHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the BHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the BHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

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Determination of Compliance

The BHA must review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the BHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

BHA Policy

Approximately 60 days prior to the end of the lease term, the BHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 30 business days to submit the BHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or BHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

BHA Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to the BHA within 10 business days.

Within 10 business days of a family reporting such a change, or the BHA determining such a change is necessary, the BHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the BHA within 10 business days. Any claim of exemption will be verified by the BHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the BHA determining such a change is necessary, the BHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the BHA is able to verify the exemption.

The exemption will be effective immediately.

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11-I.D. DOCUMENTATION AND VERIFICATION

[24 CFR 960.605(c)(4)]

The BHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

BHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The BHA will provide a completed copy to the family and will keep a copy in the tenant file.

The BHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The BHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the BHA's determination, s/he can dispute the decision through the BHA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If qualifying community service activities are administered by an organization other than the BHA, a family member who is required to fulfill a service requirement must provide certification to the BHA, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

BHA Policy

If anyone in the family is subject to the community service requirement, the BHA will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the BHA, upon request by the BHA.

If the BHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the BHA has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds

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for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, the BHA may not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement with the BHA. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c)].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If the BHA determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), the BHA must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that the BHA will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with the BHA to cure the noncompliance, or the family provides written assurance satisfactory to the BHA that the tenant or other noncompliant resident no longer resides in the unit.

The notice must also state that the tenant may request a grievance hearing on the BHA's determination, in accordance with the BHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the BHA's nonrenewal of the lease because of the BHA's determination.

> BHA Policy
>
> The notice of initial noncompliance will be provided at least 45 days prior to the end of the lease term.
>
> The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.
>
> If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the BHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.
>
> If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the BHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance
[24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, the BHA must

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terminate tenancy of the entire family, according to the BHA's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

BHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the BHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each BHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the BHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

BHA Implementation of Community Service

The BHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by BHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

BHA Policy

The BHA will notify its insurance company if residents will be performing community service at the BHA. In addition, the BHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, the BHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

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BHA Program Design

The BHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

BHA Policy

The BHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The BHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The BHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The BHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the BHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the BHA Plan.

The BHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – volunteer work which includes, but is not limited to:

- Work at a local institution, including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization such as: Parks and Recreation, United Way, Red Cross, Volunteers of America, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, PAL, Garden Center, community clean-up programs, beautification programs, other counseling, aid, youth or senior organizations

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- Work at the housing authority to help with litter control
- Work at the housing authority to help with children's programs
- Work at the housing authority to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems
- Serving as an officer in a resident organization
- Serving on the Resident Advisory Board
- Caring for children of other residents so they may volunteer

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness programs
- Job training programs
- GED classes
- Substance abuse or mental health counseling
- English proficiency or literacy (reading) classes
- Apprenticeships
- Budgeting and credit counseling
- Any kind of class that helps a person toward economic independence
- Student status at any school, college or vocation school

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is working at least 30 hours per week
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program
- Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program

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C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.
3. Family obligation:
   - At lease execution, all adult members (18 or older) of a public housing resident family must:
     - Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
     - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
   - Upon written notice from the BHA, non-exempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
   - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, as a condition of continued occupancy.
4. Change in exempt status:
   - If, during the twelve (12) month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to the BHA and provide documentation of exempt status.
   - If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to the BHA. Upon receipt of this information the BHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the BHA will:
   - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
   - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The BHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease

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renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, the BHA will verify the exemption status in accordance with its verification policies. The BHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the BHA's grievance procedure if they disagree with the BHA's determination.
4. Noncompliance of family member:
   - At least thirty(30) days prior to the end of the 12-month lease term, the BHA will begin reviewing the exempt or non-exempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the BHA finds the family member to be noncompliant, the BHA will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with the BHA, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to the BHA that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the BHA that the noncompliant family member no longer resides in the unit;
   - The family may use the BHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident	Date
Resident	Date
Resident	Date
Resident	Date

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EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) 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 has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

> (A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and
>
> (B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or
>
> (ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.
>
> (2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.
>
> (3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable 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 twelve months.

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EXHIBIT 11-3: BHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the BHA's community service requirement for the following reason:

❒ 62 years of age or older. *(Documentation of age in file)*

❒ Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement. (*Documentation of HUD definition of disability in file)*

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

_____ _____
Signature of Family Member Date

❒ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*

❒ Is working at least 30 hours per week. *(Employment verification in file)*

❒ Is participating in a welfare-to-work program. (*Documentation in file)*.

❒ Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program, including a State-administered welfare-to-work program (*Documentation in file*)

❒ Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program. *(Documentation in file)*

_____ _____
Signature of Family Member Date

_____ _____
Signature of BHA Official Date

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Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains BHA's transfer policy, based on HUD regulations, HUD guidance, and BHA policy decisions.

This chapter describes HUD regulations and BHA policies related to transfers in four parts:

> Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.
>
> Part II: BHA Required Transfers. This part describes types of transfers that may be required by BHA, notice requirements, and payment of transfer costs.
>
> Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.
>
> Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

BHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

BHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by BHA.

In the case of a genuine emergency, it may be unlikely that BHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, BHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, BHA must offer standard alternative accommodations, if

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available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

BHA Policy

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

> Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

12-I.C. EMERGENCY TRANSFER PROCEDURES

BHA Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, BHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, BHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant.

12-I.D. COSTS OF TRANSFER

BHA Policy

BHA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions that were no fault of the tenant.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

BHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, BHA will collect information from companies in the community that provide these services.

BHA will reimburse the family for eligible out-of-pocket moving expenses up to BHA's established moving allowance.

PART II: BHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to BHA to develop reasonable transfer policies.

BHA may require that a resident transfer to another unit under some circumstances. For example, BHA may require a resident to transfer to make an accessible unit available to a disabled family. BHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, BHA may transfer residents in order to demolish or renovate the unit.

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A transfer that is required by BHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF BHA REQUIRED TRANSFERS

BHA Policy

The types of transfers that may be required by BHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by BHA are mandatory for the tenant.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, BHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

BHA Policy

When a non-accessible unit becomes available, BHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. BHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

BHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to BHA policy [24 CFR 960.257(a)(4)]. On some occasions, BHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

BHA Policy

BHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Chapter 5.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on BHA's occupancy standards as described in Chapter 5.

BHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on BHA's occupancy standards, when BHA determines there is a need for the transfer.

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BHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by BHA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Chapter 5. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit BHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

BHA Policy

BHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. BHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION

[24 CFR 966.4(e)(8)(i)]

A BHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, BHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

BHA Policy

BHA will bear the reasonable costs of transfers that BHA requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

BHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, BHA will collect information from companies in the community that provide these services.

BHA will reimburse the family for eligible out-of-pocket moving expenses up to BHA's established moving allowance.

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PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides BHA with discretion to consider transfer requests from tenants. The only requests that BHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of BHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by BHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

BHA Policy

The types of requests for transfers that BHA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, and transfers to a different unit size as long as the family qualifies for the unit according to BHA's occupancy standards. No other transfer requests will be considered by BHA.

BHA will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at BHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features

BHA will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet BHA's definition of overcrowded, as long as the family meets BHA's occupancy standards for the requested size unit

Transfers requested by the tenant are considered optional for the tenant.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, BHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

BHA Policy

Except where reasonable accommodation is being requested, BHA will only consider

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transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety or residents and staff

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to BHA's advantage to make the transfer.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

BHA Policy

When a family transfers from one unit to another, BHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF TRANSFER

BHA Policy

The resident will bear all of the costs of transfer s/he requests. However, in cases of documented financial hardship, BHA will consider assuming the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

BHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, BHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, BHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

BHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

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BHA will respond within ten (10) business days of the submission of the family's request. If BHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

BHA Policy

BHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other BHA-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, BHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow BHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

BHA Policy

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Residents will receive one offer of a transfer.

When the transfer is required by BHA, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

Tenant will have 15 days from the date of the transfer notice to move.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

BHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

> Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
>
> The family demonstrates to BHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
>
> A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
>
> The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 15-day notice to move.

BHA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

BHA Policy

If subject to deconcentration requirements, BHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve BHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

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12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

BHA Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

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Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The BHA may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which a BHA can terminate a family's lease, and give BHAs authority to determine other reasons.

When determining BHA policy on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and BHA's termination of the lease. It is presented in four parts:

> Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the BHA places upon families who wish to terminate their lease.
>
> Part II: Termination by BHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the BHA occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.
>
> Part III: Termination by BHA – Other Authorized Reasons. This part describes the BHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the BHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the BHA has full discretion whether to consider the options as just cause to terminate as long as the BHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the BHA may consider in lieu of termination, and the criteria the BHA will use when deciding what actions to take.
>
> Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and BHA policies regarding the timing and content of written notices for lease

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termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE

[24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the project office or the BHA central office or sent by pre-paid first-class mail, properly addressed.

BHA Policy

If a family desires to move and terminate their tenancy with the BHA, they must give a written notice to terminate tenancy twenty (20) days prior to the end of the month per Washington State Residential Landlord-Tenant Act. When a family must give less than 20 days notice due to circumstances beyond their control the BHA, at its discretion, may waive the 20 day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

PART II: TERMINATION BY BHA – MANDATORY

13-II.A. OVERVIEW

HUD requires the BHA to terminate the lease in certain circumstances. In other circumstances HUD requires the BHA to establish provisions for lease termination, but it is still a BHA option to determine, on a case-by-case basis, whether termination is warranted. For those tenant actions or failures to act where HUD requires termination, the BHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the BHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT

[24 CFR 960.259(a) and (b)]

The BHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP

[24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The BHA must terminate the lease 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, resulting in no eligible family members; or (3) a family member, as determined by the BHA, has knowingly permitted another individual

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who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), 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.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION

[24 CFR 5.218(c) and 24 CFR 960.259(a)(3)]

The BHA must terminate the lease if a resident 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. See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE BHA'S OFFER OF A LEASE REVISION

[24 CFR 966.4(l)(2)(ii)(E)]

The BHA must terminate the lease if the family fails to accept the BHA's offer of a lease revision to an existing lease, provided the BHA has done the following:

- The revision is on a form adopted by the BHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The BHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The BHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to BHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION

[24 CFR 966.4(l)(5)(i)(A)]

The BHA must immediately terminate the lease if the BHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.
See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS

[24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The BHA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

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PART III: TERMINATION BY BHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the BHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The BHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the BHA may, as an alternative to termination, require the exclusion of the culpable household member. The BHA must make policy decisions concerning these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. The BHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the BHA lease. In the development of the terms of the lease, the BHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The BHA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The BHA may consider alternatives to termination and must establish policies describing the criteria the BHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the BHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS

[24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore BHA policies are needed.

Definitions [24 CFR 5.100]
The following definitions will be used for this and other parts of this chapter:
Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 3-III.F.
Domestic violence is defined in section 3-III.F.
Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

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Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.
Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and BHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Immediate family member is defined in section 3-III.F.
Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.
Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
Stalking is defined in section 3-III.F.

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.

Drug Crime On or Off the Premises
[24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

> BHA Policy
> The BHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.
> The BHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.
> In making its decision to terminate the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug
[24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a BHA may evict a family when the BHA determines that a

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household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

BHA Policy
The BHA will terminate the lease when the BHA determines that a household member is illegally using a drug or the BHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means one or more incident of any use of illegal drugs during the previous six months.

The BHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents
[24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including BHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

BHA Policy
The BHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including BHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

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

The BHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

In making its decision to terminate the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse
[24 CFR 966.4(l)(5)(vi)(A)]

PHAs must establish standards that allow termination of tenancy if the BHA determines that a

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household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

BHA Policy
The BHA will terminate the lease if the BHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

The BHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation
[24 CFR 966.4(l)(5)(vi)(B)]

PHAs must establish standards that allow termination of tenancy if the BHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

BHA Policy
The BHA will terminate the lease if the BHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The BHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions
[24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease

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and grounds for termination. Incidents of actual or threatened domestic 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 [Pub.L. 109-162].

BHA Policy

The BHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling 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.

Not to provide accommodations for boarders or lodgers.

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose.

To abide by necessary and reasonable regulations promulgated by the BHA for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease.

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition.

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner.

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators.

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project.

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project

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buildings, facilities or common areas) caused by the tenant, a member of the household or a guest.

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition
Failure to maintain utility services during tenancy.

In making its decision to terminate the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13 III.F. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION

[24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause

[24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the BHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the BHA to only those examples. The Violence against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, or stalking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence.

BHA Policy
The BHA will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or 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.

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery after admission of facts that made the tenant ineligible.

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for the BHA to make determinations with respect to rent,

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eligibility, and the appropriateness of dwelling size.

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the BHA that such a dwelling unit is available.

Failure to permit access to the unit by the BHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.

Failure to promptly inform the BHA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of the BHA pet policy.

If the family has breached the terms of a repayment agreement entered into with the BHA.

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward BHA personnel.

> *Abusive or violent behavior towards BHA 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 the lease, the BHA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13 III.F. Upon consideration of such alternatives and factors, the BHA may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the BHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

BHA Policy

The family must supply any information or certification requested by the BHA to verify that the family is living in the unit, or relating to family absence from the unit, including any BHA-requested information or certification on the purposes of family absences. The family must cooperate with the BHA for this purpose.

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The family must promptly notify the BHA 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. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the BHA will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, the BHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the BHA will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families

[24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the BHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require PHAs to evict over-income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income-eligible.

BHA Policy

The BHA will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member

[24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the BHA may consider exclusion of the culpable household member. Such an alternative can be used, by BHA policy, for any other reason where such a solution appears viable.

BHA Policy

The BHA will consider requiring the tenant 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.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household 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 household member's current address upon BHA request.

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Repayment of Family Debts

BHA Policy
If a family owes amounts to the BHA, as a condition of continued occupancy, the BHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the BHA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A BHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence
[24 CFR 982.553(c)]

For criminal activity, HUD permits the BHA to terminate the lease 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, and without satisfying the standard of proof used for a criminal conviction.

BHA Policy
The BHA 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 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the BHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.
Such relevant circumstances can also be considered when terminating the lease for any other reason.

BHA Policy
The BHA will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

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

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The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, or stalking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the BHA's failure to terminate the tenancy

The effect of the BHA's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

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

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation
[24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

BHA Policy
In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the BHA will 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.

For this purpose the BHA will 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.

Reasonable Accommodation
[24 CFR 966.7]

If the family includes a person with disabilities, the BHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BHA Policy
If a family indicates that the behavior of a family member with a disability is the reason

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for a proposed termination of lease, the BHA will determine whether the behavior is related to the disability. If so, upon the family's request, the BHA will determine whether alternative measures are appropriate as a reasonable accommodation. The BHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation
[24 CFR 966.4(l)(5)(vii)(F)]

The BHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

[Pub.L. 109-162 and 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 cause for termination of the tenancy or occupancy rights, if the tenant or immediate family member of the tenant's family is the victim or threatened victim of that abuse." VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

VAWA does not limit the BHA's authority to terminate the tenancy of any tenant if the BHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property.

Victim Documentation

BHA Policy
When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a tenant or immediate family member of the tenant'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 BHA 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
A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another

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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 BHA within 14 business days after the individual claiming victim status receives a request for such certification. The BHA, owner or manager will be aware that the delivery of the certification form to the tenant in response to an incident via mail may place the victim at risk, e.g., the abuser may monitor the mail. The BHA may require that the tenant come into the office to pick up the certification form and will work with tenants to make delivery arrangements that do not place the tenant at risk. This 14-day deadline may be extended at the BHA's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, the BHA may proceed with assistance termination.

The BHA also reserves the right to waive these victim verification requirements and accept only a self-certification from the victim if the BHA deems the victim's life to be in imminent danger.

Once a victim has completed certification requirements, the BHA will continue to assist the victim and may use bifurcation as a tool to remove a perpetrator from assistance. Owners will be notified of their legal obligation to continue housing the victim, while using lease bifurcation to remove the perpetrator from a unit. The BHA will make all best efforts to work with victims of domestic violence before terminating the victim's assistance.

In extreme circumstances when the BHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's (including the victim's) tenancy is not terminated, the BHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives the BHA the explicit authority to bifurcate a lease, or to remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, 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 BHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance [Pub.L. 109-271].

<u>BHA Policy</u>
When the actions of a tenant or other family member result in a determination by the BHA to terminate the family's lease and another family member claims that the actions

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involve criminal acts of physical violence against family members or others, the BHA 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 BHA will bifurcate the lease and evict or terminate the occupancy rights of the perpetrator. If the victim does not provide the certification and supporting documentation, as required, the BHA will proceed with termination of the family's lease.

If the BHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant's tenancy is not terminated, the BHA will bypass the standard process and proceed with the immediate termination of the family.

BHA Confidentiality Requirements

All information provided to the BHA 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.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS

[24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. BHA policy determines when the BHA will conduct such checks.

<u>BHA Policy</u>
The BHA will conduct criminal records checks when it has come to the attention of the BHA, either from local law enforcement or by other means, that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

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The BHA may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY

[24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the BHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the BHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the BHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

> BHA Policy
> In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the BHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant an opportunity to request a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.
>
> The family will be given 10 business days from the date of the BHA notice, to dispute the accuracy and relevance of the information. If the family does not contact the BHA to dispute the information within that 10 business day period, the BHA will proceed with the termination action.
>
> Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE

[24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine BHA documents directly relevant to the termination or eviction. If the BHA does not make the documents available for examination upon request by the tenant, the BHA may not proceed with the eviction [24 CFR 996.4(m)].

When the BHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the BHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the BHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal

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activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the BHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the BHA, or for a drug-related criminal activity on or off the premises.

BHA Policy
The BHA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a statement of the protection against termination provided by VAWA for victims of domestic violence, dating violence, or stalking. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in Section 13-III.F.

Timing of the Notice
[24 CFR 966.4(l)(3)(i)]

The BHA must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (typically 10 days but not to exceed 30 calendar days)
  If the health or safety of other residents, BHA employees, or persons residing in the immediate vicinity of the premises is threatened
  If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
  If any member of the household has been convicted of a felony
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

BHA Policy
The BHA will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations the BHA will give 30 days written notice unless a shorter time period is allowed by Washington State Residential Landlord Tenant Act.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

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Notice of Nonrenewal Due to Community Service Noncompliance
[24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the BHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

> BHA Policy
> If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.
>
> If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status
[24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's 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 the family's right to request an informal hearing with the BHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the BHA's informal hearing procedures.

13-IV.E. EVICTION
[24 CFR 966.4(l)(4) and 966.4(m)]

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 BHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

> BHA Policy
> When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the BHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.
>
> If the eviction action is finalized in court and the family remains in occupancy beyond the

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deadline to vacate given by the court, the BHA will seek the assistance of the court to remove the family from the premises as per state and local law.

The BHA may not proceed with an eviction action if the BHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE

[24CFR 966.4(l)(5)(iii)(B)]

When the BHA evicts an individual or family for criminal activity, including drug-related criminal activity, the BHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

BHA Policy

A written record of every termination and/or eviction will be maintained by the BHA at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied.

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently.

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905).

Date and method of notifying the resident.

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

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Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to BHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

> Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.
> Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.
> Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the BHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the BHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the BHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS

[24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants in the BHA grievance procedure [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

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Use of Informal Hearing Process

While the BHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the BHA could make the informal hearing process available to applicants who wish to dispute other BHA actions that adversely affect them.

> BHA Policy
> The BHA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial
[24 CFR 960.208(a)]

The BHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the BHA decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.
Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

> BHA Policy
> A request for an informal hearing must be made by phone or in writing and delivered to the BHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the BHA's notification of denial of admission.
> Except as provided in Section 3-III.F, the BHA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing
[PH Occ GB, p. 58]

> BHA Policy
> The informal hearing will be conducted by a person other than the one who made the decision under review, or a subordinate of this person.
> The applicant will be provided an opportunity to present written or oral objections to the decision of the BHA.
> The person conducting the informal hearing will make a recommendation to the BHA, but the BHA is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision
[PH Occ GB, p. 58]

> BHA Policy
> The BHA will notify the applicant of the BHA's final decision, including a brief statement of the reasons for the final decision.

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In rendering a decision, the BHA 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 admission. If the grounds for denial are not specified in the regulations or in BHA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. The BHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the BHA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the BHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The BHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 30 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities
[24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the BHA must consider such accommodations. The BHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS

[24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

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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 BHA 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 BHA 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 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- 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 tenant, 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 BHA 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.

United States Citizenship and Immigration Services Appeal Process
[24 CFR 5.514(e)]

When the BHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the BHA 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 BHA with a copy of the written request for appeal and proof of mailing.

> <u>BHA Policy</u>
> The BHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.
>
> The family must provide the BHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written

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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 BHA, of its decision. When the USCIS notifies the BHA of the decision, the BHA must notify the family of its right to request an informal hearing.

BHA Policy

The BHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants

[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the BHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the BHA 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 BHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the BHA 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.

BHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BHA 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 BHA, and to confront and cross-examine all witnesses on whose testimony or information the BHA relies.

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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 BHA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the BHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The BHA may, but is not required to provide a transcript of the hearing.

> BHA Policy
> The BHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

The BHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 30 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents
[24 CFR 5.514(h)]

The BHA must retain for a minimum of 5 years the following documents that may have been submitted to the BHA by the family, or provided to the BHA as part of the USCIS appeal or the BHA 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

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, a

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resident family may request that the BHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the BHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS

[24 CFR 966.52]

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any BHA action or failure to act involving the lease or BHA policies which adversely affect their rights, duties, welfare, or status.

The BHA grievance procedure must be included in, or incorporated by reference in, the lease.

> BHA Policy
> The BHA grievance procedure will be incorporated by reference in the tenant lease.

The BHA must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the BHA grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the BHA before adoption of any grievance procedure changes by the BHA.

> BHA Policy
> Residents and resident organizations will have 30 calendar days from the date they are notified by the BHA of any proposed changes in the BHA grievance procedure, to submit written comments to the BHA.

The BHA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS

[24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to BHA action or failure to act in accordance with the individual tenant's lease or BHA regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the BHA or at the project management office

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- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:

  Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction

  Right of the tenant to be represented by counsel

  Opportunity for the tenant to refute the evidence presented by the BHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have

  A decision on the merits
- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto
- **Tenant** – the adult person (or persons) (other than a live-in aide)

  Who resides in the unit, and who executed the lease with the BHA as lessee of the dwelling unit, or, if no such person now resides in the unit,

  Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY

[24 CFR 966.51]

Potential grievances could address most aspects of a PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the BHA. It is not applicable to disputes between tenants not involving the BHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the BHA.

If HUD has issued a due process determination, a BHA may exclude from the BHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the BHA
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

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In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E. below, to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, the BHA may evict through the state/local judicial eviction procedures. In this case, the BHA is not required to provide the opportunity for a hearing under the BHA's grievance procedure as described above.

> BHA Policy
> The BHA grants opportunities for grievance hearings for all lease terminations, regardless of cause.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE

[24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the BHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

> BHA Policy
> The BHA will accept requests for an informal settlement of a grievance either orally or in writing, to the BHA office within 10 business days of the grievable event. Within 10 business days of receipt of the request the BHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.
>
> If a tenant fails to attend the scheduled meeting without prior notice, the BHA will reschedule the appointment only if the tenant can show good cause for failing to appear, 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.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the BHA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

> BHA Policy
> The BHA will prepare a summary of the informal settlement within 10 business days; one copy to be given to the tenant and one copy to be retained in the BHA's tenant file.

For BHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances

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for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING

[24 CFR 966.55]

Requests for Hearing and Failure to Request

[24 CFR 966.55(a), (c), and (d)]

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer/panel, the hearing officer/panel may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

> BHA Policy
> The resident must submit a written request for a grievance hearing to the BHA within 10 business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the BHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the BHA's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

Escrow Deposits

[24 CFR 966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent that the BHA claims is due, the family must pay an escrow deposit to the BHA. When a family is required to make an escrow deposit, the amount is the amount of rent the BHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer/panel.

The BHA must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless the BHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest the BHA's disposition of the grievance in any appropriate judicial proceeding.

> BHA Policy
> The BHA will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

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Scheduling of Hearings
[24 CFR 966.55(f)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and the BHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate BHA official.

> BHA Policy
> Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the BHA.

The BHA may wish to permit the tenant to request to reschedule a hearing for good cause.

> BHA Policy
> The tenant 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 BHA may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure
[24 CFR 966.55(g)]

The BHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the BHA, or
- Any drug-related criminal activity on or near such premises

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The BHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

> BHA Policy
> The BHA will follow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the BHA, or any drug-related criminal activity on or near such premises.
> Such procedures will provide for an expedited notice of hearing request, an expedited scheduling of the hearing, and for an expedited decision on the grievance. The tenant

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will have 3 business days to make their hearing request. The hearing officer will have 3 business days to schedule the hearing, and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.

14-III.F. SELECTION OF HEARING OFFICER/PANEL

[24 CFR 966.55(b)]

The grievance hearing must be conducted by an impartial person or persons appointed by the BHA, other than the person who made or approved the BHA action under review, or a subordinate of such person.

The BHA must determine the methodology for appointment of the hearing officer and it must be stated in the grievance procedure.

BHA Policy
The BHA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

The BHA must consult with resident organizations before a person is appointed as a hearing officer or hearing panel member. Comments from the resident organizations must be considered before making the appointment.

14-III.G. PROCEDURES GOVERNING THE HEARING

[24 CFR 966.56]

Rights of Complainant

[24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

The opportunity to examine before the grievance hearing any BHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the BHA does not make the document available for examination upon request by the complainant, the BHA may not rely on such document at the grievance hearing.

BHA Policy
The tenant will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.

PHA Policy
Hearings may be attended by the following applicable persons:

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A BHA representative(s) and any witnesses for the BHA

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by the BHA as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the BHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the BHA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing
[24 CFR 966.56(c)]

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

Failure to Appear
[24 CFR 966.56(d)]

If the complainant or the BHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the BHA must be notified of the determination by the hearing officer/panel: Provided, That a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the BHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

<u>BHA Policy</u>
If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the tenant appears within 15 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear.
If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the BHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or 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.

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General Procedures
[24 CFR 966.56(e), (f), and (g)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the BHA must sustain the burden of justifying the BHA action or failure to act against which the complaint is directed [24 CFR 966.56(e)].

The hearing must be conducted informally by the hearing officer/panel. The BHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR 966.56(f)].

BHA Policy
Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the BHA. Writings include all forms of recorded communication or representation, including letters, emails, 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 the BHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine BHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the BHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require the BHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate [24 CFR 966.56(f)].

The complainant or the BHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(g)].

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BHA Policy
If the complainant would like the BHA to record the proceedings by audiotape, the request must be made to the BHA by 12:00 p.m. on the business day prior to the hearing.

The BHA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities
[24 CFR 966.56(h)]

The BHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the BHA's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL

[24 CFR 966.57]

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. 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 decision must be sent to the tenant and the BHA. The BHA must retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the BHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

BHA Policy
In rendering a decision, the hearing officer will consider the following matters:

BHA Notice to the Family: The hearing officer will determine if the reasons for the BHA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with BHA policy.

BHA Evidence to Support the BHA 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 BHA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and BHA policies. If the grounds for

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termination are not specified in the regulations or in compliance with BHA policies, then the decision of the BHA will be overturned.

The hearing officer will issue a written decision to the family and the BHA no later than 30 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant
Date, time and place of the hearing
Name of the hearing officer
Name of the BHA representative(s)
Name of family representative (if any)
Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance 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 BHA's decision.

Order: The hearing report will include a statement of whether the BHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the BHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the BHA to restore the family's status.

Procedures for Further Hearing

BHA Policy
The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the BHA will take effect and another hearing will not be granted.

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In addition, within ten (10) business days after the date the hearing officer's report is mailed to BHA and the participant, BHA 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 ten (10) business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of BHA 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.

Final Decision
[24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on the BHA which must take the action, or refrain from taking the action cited in the decision unless the BHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern BHA action or failure to act in accordance with or involving the complainant's lease on BHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the BHA.

<u>BHA Policy</u>

Within ten (10) business days after the date the hearing officer's report is mailed to BHA and the participant, BHA 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 ten (10) business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of BHA 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.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the BHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

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Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The BHA is committed to ensuring that funds made available to the BHA are spent in accordance with HUD requirements.

This chapter covers HUD and BHA 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 BHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the BHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

BHA Policy

The BHA anticipates that the vast majority of families and BHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the BHA's program is administered effectively and according to the highest ethical and legal standards, the BHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The BHA will provide each applicant and resident 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 BHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The BHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The BHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

BHA staff will be required to review and explain the contents of all HUD- and BHA-required forms prior to requesting family member signatures.

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The BHA 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 BHA forms and form letters that request information from a family member.

The BHA will provide each BHA 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.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the BHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

BHA Policy

The BHA will employ a variety of methods to detect errors and program abuse, including:

The BHA 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 BHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of BHA activities and notifies the BHA of errors and potential cases of program abuse.

BHA Policy

The BHA 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 BHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

BHA Policy

The BHA will encourage staff, residents, and the public to report possible program abuse.

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15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the BHA Will Investigate

BHA Policy

The BHA 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 BHA 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 BHA 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 960.259]

The BHA may investigate possible instances of error or abuse using all available BHA and public records. If necessary, the BHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

BHA Policy

The BHA 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 BHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the BHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the BHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

BHA Policy

In the case of family-caused errors or program abuse, the BHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

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Notice and Appeals

BHA Policy

The BHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the BHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the BHA must promptly correct the tenant rent and any utility reimbursement prospectively.

BHA Policy

Increases in the tenant rent will be implemented only after the family has received 30 days notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the BHA or the BHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent 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 BHA to use incorrect information provided by a third party.

Family Reimbursement to BHA

BHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The BHA may, but is not required to, offer the family a

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repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the BHA will terminate the family's lease in accordance with the policies in Chapter 13.

BHA Reimbursement to Family

BHA Policy

The BHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the BHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the BHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

BHA Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to the BHA Board of Commissioners, employees, contractors, or other BHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the BHA 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., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The BHA 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 BHA may, at its discretion, impose any of the following remedies.

- The BHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to BHA).
- The BHA 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 13 (for residents).

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- The BHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The BHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. BHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of BHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a BHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the BHA personnel policy.

BHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the BHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by BHA staff.

BHA Reimbursement to Family

BHA Policy

The BHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

BHA Policy

Any of the following will be considered evidence of program abuse by BHA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the BHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of BHA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

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15-II.D. CRIMINAL PROSECUTION

BHA Policy

When the BHA determines that program abuse by a family or BHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the BHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent 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 public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

BHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the BHA recovers [Notice PIH 2005-7 (HA)].

If the BHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the BHA's grievance process.

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Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of BHA-furnished utilities.

Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the BHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a BHA.

Part V: 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 BHA will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the BHA's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Notification to Applicants and Tenants regarding Protections under the Violence against Women Reauthorization Act of 2005 (VAWA). This part includes policies for notifying applicants and tenants of VAWA requirements.

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PART I: SETTING UTILITY ALLOWANCES

[24 CFR 965 Subpart E]

16-I.A. OVERVIEW

PHAs must establish allowances for BHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

PHAs must also establish surcharges for excess consumption of BHA-furnished utilities [24 CFR 965.506].

The BHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

The BHA must establish separate allowances for each utility and for each category of dwelling units the BHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a BHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the BHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the BHA about establishing utility allowances.

Air-Conditioning

"If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For

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systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

BHA Policy
The BHA has not installed air-conditioning.

Utility Allowance Revisions
[24 CFR 965.507]

The BHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The BHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

BHA Policy
Unless the BHA is required to revise utility allowances annually on July 1st. Unless the change is greater than 10%, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

16-I.C. SURCHARGES FOR BHA-FURNISHED UTILITIES

[24 CFR 965.506]

For dwelling units subject to allowances for BHA-furnished utilities where check meters have been installed, the BHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the BHA's average utility rate. The basis for calculating the surcharges must be described in the BHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the BHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by BHA-furnished utilities where check meters have not been installed, the BHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of BHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of BHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the BHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

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BHA Policy
The BHA does have BHA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS

[965.502]

The BHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the BHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION

[24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the BHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

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Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the BHA establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS

[24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which the BHA could promptly lease the public housing unit after preparation for occupancy.

The BHA must use a reasonable method to determine flat rents. In determining flat rents, BHA must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the BHA
- Utilities provided by the BHA

Review of Flat Rents

The BHA must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

> BHA Policy
> The BHA will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values.

Posting of Flat Rents

> BHA Policy
> The BHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable BHA or project office.

Documentation of Flat Rents

[24 CFR 960.253(b)(5)]

The BHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the BHA in accordance with this method.

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16-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents

PHAs are prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, BHAs must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total tenant payment (TTP) for each tenant within the BHA. PHAs may calculate a maximum rent on either a BHA- or project wide basis. A separate maximum rent can be provided for each separate project or projects may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

PHAs may use the "direct comparison" or the "unit distribution" method for establishing the public housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

BHA Policy
The BHA will recalculate the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

BHA Policy
The BHA will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable BHA or project office.

Documentation of Public Housing Maximum Rents

BHA Policy
The BHA will maintain records that document how the BHA determined the 95th percentile of TTP, whether the maximum rent was determined BHA-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE BHA

16-III.A. OVERVIEW

This part describes the BHA's policies for recovery of monies that have been underpaid by families.

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BHA Policy
When an action or inaction of a resident family results in the underpayment of rent or other amounts, the BHA holds the family liable to return any underpayments to the BHA. The BHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term r*epayment agreement* refers to a formal document signed by a tenant and provided to the BHA in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to the BHA, the BHA 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-III.B. REPAYMENT POLICY

Family Debts to the BHA

BHA Policy
Any amount due to the BHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the BHA 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 BHA will terminate the family's tenancy in accordance with the policies in Chapter 13. The BHA will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

BHA Policy
Prior to the execution of a repayment agreement, the family must pay 10 percent of the balance owed to the BHA.

Payment Thresholds

BHA Policy
Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
Amounts between $2,000 and $2,999 must be repaid within 30 months.
Amounts between $1,000 and $1,999 must be repaid within 24 months.
Amounts under $1,000 must be repaid within 12 months.

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Execution of the Agreement

BHA Policy
The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

BHA Policy
All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Non-Payment

BHA Policy
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 BHA, the BHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the BHA will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the BHA will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

BHA Policy
The BHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

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16-IV.B. PHAS INDICATORS

[24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's properties **Maximum Score: 30** • The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair. • To determine the physical condition of a PHA's properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. • The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in the PHA's public housing portfolio.
Indicator 2: Financial condition of a PHA **Maximum Score: 30** • The objective of this indicator is to measure the financial condition of a PHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair. • A PHA's financial condition is determined by measuring the PHA's entity-wide performance in each of the following components: current ratio, number of months expendable fund balance, tenant receivable outstanding, occupancy loss, expense management/utility consumption, and net income or loss divided by the expendable fund balance.
Indicator 3: Management operations of a PHA **Maximum Score: 30** • The objective of this indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities. • A PHA's management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, PHA annual inspection of units and systems, security, and economic self-sufficiency.
Indicator 4: Resident service and satisfaction **Maximum Score: 10** • The objective of this indicator is to measure the level of resident satisfaction with living conditions at the PHA. • The PHA's score for this indicator is based on the results of resident surveys and the level of implementation and follow-up or corrective actions the PHA takes based on the results of the survey.

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16-IV.C. PHAS SCORING

[24 CFR 902.63 and 902.67]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the components under each indicator. PHAS scores translate into a designation for each PHA as high performing, standard, or troubled.

A high performer is a PHA that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall PHAS score of 90 or greater.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and does not achieve less than 60 percent of the total points available under one of the following Indicators: 1, 2, or 3.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 60 percent of the total points available under more than one of the following indicators: 1, 2, or 3.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit an improvement plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status.

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The BHA 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 BHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

BHA Policy

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During the term of each public housing tenancy, and for at least four years thereafter, the BHA will keep all documents related to a family's eligibility, tenancy, and termination. In addition, the BHA will keep the following records for at least four years:

An application from each ineligible family and notice that the applicant is not eligible

Lead-based paint records as required by 24 CFR 35, Subpart B

Documentation supporting the establishment of flat rents and the public housing maximum rent

Documentation supporting the establishment of utility allowances and surcharges

Documentation supporting PHAS scores

Accounts and other records supporting BHA budget and financial statements for the program

Other records as determined by the BHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

BHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BHA staff.

BHA 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 BHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g.

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electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

BHA Policy

Prior to utilizing HUD's EIV system, the BHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The BHA may only disclose the criminal conviction records which the BHA receives from a law enforcement agency to officers or employees of the BHA, or to authorized representatives of the BHA who have a job-related need to have access to the information [24 CFR 5.903(e)].
The BHA must establish and implement a system of records management that ensures that any criminal record received by the BHA 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 BHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The BHA must establish and implement a system of records management that ensures that any sex offender registration information received by the BHA 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 BHA 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 BHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The BHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the BHA receives a verification document that provides such information, the BHA should not place this information in the tenant file. The BHA should destroy the document.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS

[24 CFR 35.1130(e)]

The BHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The BHA 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 BHA must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

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BHA Policy
The BHA 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. The BHA will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-VII.A. NOTIFICATION TO APPLICANTS

BHA Policy
The BHA 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 BHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The BHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

16-VII.B. NOTIFICATION TO TENANTS

[Pub.L. 109-162]

VAWA requires PHAs to notify tenants assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

BHA Policy
The BHA will provide all tenants 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 tenant of BHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The BHA will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 13-IV.D).

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HOUSING AUTHORITY OF THE CITY OF BREMERTON

DECONCENTRATION POLICY

The Housing Authority of the City of Bremerton's (BHA) admission policy is designed to provide for deconcentration of poverty and income mixing by bringing higher income tenants into lower income developments and lower income tenants into higher income developments.

Gross annual income is used for income limits at admission and for income-mixing purposes.

Skipping of a family on the waiting list specifically to reach another family with a lower or higher income is not to be considered an adverse action to the family. Such skipping will be uniformly applied until the target threshold is met.

BHA will gather data and analyze, at least annually, the tenant characteristics of its public housing stock, including information regarding tenant incomes, to assist in BHA's deconcentration efforts.

BHA will use the gathered tenant income information in its assessment of its public housing developments to determine the appropriate designation to be assigned to the development for the purpose of assisting BHA in its deconcentration goals.

If BHA's annual review of tenant incomes indicates that there has been a significant change in the tenant income characteristics of a particular development, BHA will evaluate the changes to determine whether, based on BHA methodology of choice, the development needs to be redesignated as a higher or lower income development or whether BHA has met the deconcentration goals and the development needs no particular designation.

Deconcentration and Income-Mixing Goals

Admission policies related to the deconcentration efforts of BHA do not impose specific quotas. Therefore, BHA will not set specific quotas, but will strive to achieve deconcentration and income mixing in its developments.

BHA's income-mixing goal is a long-range goal and may not be achieved in the first year of implementation. BHA will use its annual analysis of its public housing stock and tenant incomes to provide benchmarks for BHA.

BHA's income-mixing goal, in conjunction with the requirement to target at least 40 percent of new admissions to public housing in each fiscal year to "extremely low-income families", will be to achieve the following occupancy percentages over a 5 year period:

For lower income projects, a 40% occupancy rate of families at or above the extremely low income limit.

In each fiscal year, BHA will strive to achieve the following goals for deconcentration of poverty and income mixing:

Increase of higher income families into lower income developments:

Westpark – increase of 10-30 families per year

Tara Heights – increase of 2-5 families per year

Attachment (2)

The Housing Authority of the City of Bremerton (BHA) does not discriminate on the basis of race, color, creed, national origin, religion, disability, sex, sexual orientation, age (over 40), military status, whistleblower retaliation, or familial status in admission or access to its programs.
If you need to request a reasonable accommodation, contact the BHA Section 504 Coordinator at (360) 479-3694.

Equal Housing Opportunity

Barrier Free

In the upcoming fiscal year, BHA will target the following developments for deconcentration and income mixing to achieve the goals stated above:

Lower income developments where BHA's goal is to increase higher income families:
Westpark *Tara Heights*

HUD does not mandate any particular deconcentration methodology for a PHA use in achieving its goals. The PHA may elect to adopt one of the simpler methods for the first year of its deconcentration goals. NMA offers four model methodologies from which a PHA may select for use in achieving its deconcentration goals. The PHA may create its own methodology in accordance with the information offered in this plan if another method is preferred.

Project Designation Methodology

BHA will determine and compare tenant incomes at the developments listed in this Chapter.

BHA will determine and compare the tenant incomes at the developments listed in this Chapter and the incomes of census tracts in which the developments are located.

Upon analyzing its findings BHA will apply the policies, measures and incentives listed in this Chapter to bring higher income families into lower income developments and lower income families into higher income developments.

BHA's goal is to have eligible families having higher incomes occupy dwelling units in developments predominantly occupied by eligible families having lower incomes, and eligible families having lower incomes occupy dwelling units in developments predominantly occupied by eligible families having higher incomes.

Skipping of families for deconcentration purposes will be applied uniformly to all families.

When selecting applicant families and assigning transfers for a designated development BHA will determine whether the selection of the family will contribute to BHA's deconcentration goals.

BHA will not select families for a particular development if the selection will have a negative effect on BHA's deconcentration goals. However, if there are insufficient families on the waiting list or transfer list, under no circumstances will a unit remain vacant longer than necessary.

Breakdown Method

BHA will define as a higher income development any development that is located in a census tract where less than 30% of the families are below poverty rate.

BHA will define as a lower income development any development that is located in a census tract where more than 30% of the families are below poverty rate.

BHA Incentives for Higher Income Families

BHA will offer certain incentives to higher income families willing to move or transfer into lower income developments. BHA will not take any adverse action against any higher income family declining an offer by BHA to move into a lower income development.

In addition to maintaining its public housing stock in a manner that is safe, clean, well landscaped and attractive, BHA will offer the following incentives for higher income families moving into lower income developments:

BHA will target homeownership opportunities to higher income families moving into lower income developments.

The Housing Authority of the City of Bremerton (BHA) does not discriminate on the basis of race, color, creed, national origin, religion, disability, sex, sexual orientation, age (over 40), military status, whistleblower retaliation, or familial status in admission or access to its programs.
If you need to request a reasonable accommodation, contact the BHA Section 504 Coordinator at (360) 479-3694.
Equal Housing Opportunity
Barrier Free

BHA will give first priority in available Section 3 training slots and hiring for employment with BHA to higher income families moving into lower income developments.

BHA provides after school programs, the Community Center maintains a schedule of all current programs.

BHA provides a childcare facility and pre-school on site.

BHA provides many programs for youth and adults. The Community center maintains a schedule of all current programs.

BHA provides training opportunities for adults such as work experience and on-the-job training.

The Housing Authority of the City of Bremerton (BHA) does not discriminate on the basis of race, color, creed, national origin, religion, disability, sex, sexual orientation, age (over 40), military status, whistleblower retaliation, or familial status in admission or access to its programs.
If you need to request a reasonable accommodation, contact the BHA Section 504 Coordinator at (360) 479-3694.

Equal Housing Opportunity

Barrier Free

Annual Statement / Performance and Evaluation Report
Comprehensive Grant Program **(CGP) Part I: Summary**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

HA Name	Comprehensive Grant Number	FFY of Grant Approval
HOUSING AUTHORITY OF THE CITY OF BREMERTON	**WA19P003501-07**	**2007**

☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ■ Revised Annual Statement/Revision Number 1 ■ Performance & Evaluation Report for Program Year _2007__
☐ Final Performance & Evaluation Report

Line #	Summary by Development Account	Total Estimated Cost		Total Actual Cost (2)	
		Original	Revised (1)	Obligated	Expended
1	Total Non-CGP Funds				
2	1406 Operations (May not exceed 10% of line 19)	94,866	94,866	94,866.00	94,866.00
3	1408 Management Improvements	237,000	237,000	180,134.00	46,099.39
4	1410 Administration	0	0	0.00	0.00
5	1411 Audit	1,000	1,000	0.00	0.00
6	1415 Liquidated Damages				
7	1430 Fees and Costs	0	0	0.00	0.00
8	1440 Site Acquisition				
9	1450 Site Improvement	15,000	15,000	0.00	0.00
10	1460 Dwelling Structures	110,000	120,000	0.00	0.00
11	1465.1 Dwelling Equipment - Non-Expendable				
12	1470 Non-Dwelling Structures	0	0	0.00	0.00
13	1475 Non-Dwelling Equipment				
14	1485 Demolition	0	0	0.00	0.00
15	1490 Replacement Reserve				
16	1495.1 Relocation Costs	696,827	686,827	0.00	0.00
17	1498 Mod Used for Development				
18	1502 Contingency (may not exceed 8% of line 19)				
19	Amount of Annual Grant (sum of lines 2-18)	1,154,693	1,154,693	275,000.00	140,965.39
20	Amount of line 19 Related to LBP Activities	0	0	0.00	0.00
21	Amount of line 19 Related to Section 504 Compliance	0	4,780	0.00	0.00
22	Amount of line 19 Related to Security	120,000	120,000	120,000.00	8,059.62
23	Amount of line 19 Related to Energy Conservation Measures				

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director & Date	Signature of Public Housing Director/Office of Native American Programs Administrator & Date
X Kurt Wiest Date:	X

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

Attach (3)

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Annual Statement / Performance and Evaluation
Comprehensive Grant Program (CGP) **Part II: Supporting Pages**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/# HA - Wide Activities	General Description of Major Work Catagories	Devel. Acct. Number	Quantity	Total Estimated Cost		Total Actual Cost		Status of Proposed Work (2)
				Original	Revised (1)	Funds Obligated (2)	Funds Expended (2)	
1. PHA Wide Operations	Operations expenses - 10% of grant	1406		94,866	94,866	94,866.00	94,866.00	
	SUBTOTAL			**94,866**	**94,866**	**94,866.00**	**94,866.00**	
2. PHA Wide Management Improvements	1. Supplemental Law Enforcement	1408	1	120,000	120,000	120,000.00	8,059.62	
	2. Resident Initiatives Manager		1	72,500	117,000	60,134.00	38,039.77	
	3. Youth Services Coordinator							
	4. Administrative Assistant		1	44,500				
	SUBTOTAL			**237,000**	**237,000**	**180,134.00**	**46,099.39**	
3. PHA Wide Administrative Costs		1410						
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
4. PHA Wide Audit Costs	Annual Audit	1411		1,000	1,000			
	SUBTOTAL			**1,000**	**1,000**	**0.00**	**0.00**	
5. PHA Wide Fees and Costs		1430						
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
6. WA 3-1 Westpark		1450						
	1. Nursery/Landscape Training Program							
	2. Erosion Control							
	3. Sec. 504 Accessibility Improvements							
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
7. WA 3-8 Tara Heights		1450						
	1. Nursery/Landscape Training Program		6	4,780	0			
	2. Erosion Control			10,220	10,220			
	3. Sec. 504 Accessibility Improvements				4,780			
	SUBTOTAL			**15,000**	**15,000**	**0.00**	**0.00**	

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

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Annual Statement / Performance and Evaluation
Comprehensive Grant Program (CGP) **Part II: Supporting Pages**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/# HA - Wide Activities	General Description of Major Work Categories	Devel. Acct. Number	Quantity	Total Estimated Cost		Total Actual Cost		Status of Proposed Work (2)
				Original	Revised (1)	Funds Obligated (2)	Funds Expended (2)	
8. WA 3-1 Westpark	1. Furnace Replacement	1460		25,000	5,000			
	2. Roof Replacement/Repairs				20,000			
	3. Water Heater Replacement			25,000	5,000			
	SUBTOTAL			**50,000**	**30,000**	**0.00**	**0.00**	
9. WA 3-8 Tara Heights	1. Furnace Replacement	1460			5,000			
	2. Roof Replacement		10 bldgs	60,000	80,000			
	3. Water Heater Replacement				5,000			
	SUBTOTAL			**60,000**	**90,000**	**0.00**	**0.00**	
10. PHA Wide Non-Dwelling Structures	1. WPCC Sec. 504 Accessibility Improvements	1470						
	2. Laundry Room Sec. 504 Accessibility Improvements							
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
11. PHA Wide Demolition	Demolition	1485						
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
12. WA 3-1 Relocation		1495						
	1. Physical Relocation of PH Residents		269	488,182	478,182			
	2. Relocation Coach & related expenses		3	160,245	160,245			
	3. Logistics Specialist		1	48,400	48,400			
	SUBTOTAL			**696,827**	**686,827**	**0.00**	**0.00**	
	GRAND TOTAL			**1,154,693**	**1,154,693**	**275,000**	**140,965**	

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

Annual Statement/Performance and Evaluation Report
Comprehensive Grant Program (CGP) **Part III: Implementation Schedule**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/Number HA - Wide Activities	All Funds Obligated (Quarter Ending Date)			All Funds Expended (Quarter Ending Date)			Reasons for Revised Target Dates (2)
	Original	Revised (1)	Actual (2)	Original	Revised (1)	Actual (2)	
WA 3-1 Westpark	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
WA 3-8 Tara Heights	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
PHA Wide							
Management Improvements	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Operations	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Audit Costs	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Administrative Costs	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Non-Dwelling Structures	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Fees & Costs	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Demolition	9/30/2009	9/30/2009		9/30/2011	9/30/2011		
Relocation	9/30/2009	9/30/2009		9/30/2011	9/30/2011		

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

Annual Statement / Performance and Evaluation Report
Comprehensive Grant Program **(CGP) Part I: Summary**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

HA Name	Comprehensive Grant Number	FFY of Grant Approval
HOUSING AUTHORITY OF THE CITY OF BREMERTON	**WA19P003501-06**	**2006**

☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ■ Revised Annual Statement/Revision Number 4 ■ Performance & Evaluation Report for Program Year __2006___
☐ Final Performance & Evaluation Report

Line #	Summary by Development Account	Total Estimated Cost		Total Actual Cost (2)	
		Original	Revised (1)	Obligated	Expended
1	Total Non-CGP Funds				
2	1406 Operations (May not exceed 10% of line 19)	103,481	103,481	103,481.00	103,481.00
3	1408 Management Improvements	182,200	182,200	182,200.00	182,200.00
4	1410 Administration	4,986	4,986	4,986.00	4,985.02
5	1411 Audit	0	0	0.00	0.00
6	1415 Liquidated Damages				
7	1430 Fees and Costs	348,568	348,568	348,568.00	348,568.00
8	1440 Site Acquisition				
9	1450 Site Improvement	20,000	20,000	20,000.00	0.00
10	1460 Dwelling Structures	5,000	5,000	5,000.00	0.00
11	1465.1 Dwelling Equipment - Non-Expendable				
12	1470 Non-Dwelling Structures	0	0	0.00	0.00
13	1475 Non-Dwelling Equipment				
14	1485 Demolition	0	0	0.00	0.00
15	1490 Replacement Reserve				
16	1495.1 Relocation Costs	484,811	484,811	484,811.00	149,108.63
17	1498 Mod Used for Development				
18	1502 Contingency (may not exceed 8% of line 19)				
19	Amount of Annual Grant (sum of lines 2-18)	1,149,046	1,149,046	1,149,046.00	788,342.65
20	Amount of line 19 Related to LBP Activities	0	0	0.00	0.00
21	Amount of line 19 Related to Section 504 Compliance	0	0	0.00	0.00
22	Amount of line 19 Related to Security	63,700	87,262	87,262.00	87,262.00
23	Amount of line 19 Related to Energy Conservation Measures				

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director & Date	Signature of Public Housing Director/Office of Native American Programs Administrator & Date
X Kurt Wiest Date:	X

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

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Annual Statement / Performance and Evaluation
Comprehensive Grant Program (CGP) **Part II: Supporting Pages**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/# HA - Wide Activities	General Description of Major Work Catagories	Devel. Acct. Number	Quantity	Total Estimated Cost		Total Actual Cost		Status of Proposed Work (2)
				Original	Revised (1)	Funds Obligated (2)	Funds Expended (2)	
1. PHA Wide Operations		1406		103,481	103,481	103,481.00	103,481.00	
	SUBTOTAL			**103,481**	**103,481**	**103,481.00**	**103,481.00**	
2. PHA Wide Management Improvements	1. Supplemental Law Enforcement	1408	1	63,700	87,262	87,262.00	87,262.00	
	2. Resident Initiatives Manager		1	72,500	94,938	94,938.00	94,938.00	
	3. Youth Services Coordinator		1	46,000				
	4. Administrative Assistant							
	SUBTOTAL			**182,200**	**182,200**	**182,200.00**	**182,200.00**	
3. PHA Wide Administrative Costs		1410		4,986	4,986	4,986.00	4,985.02	
	SUBTOTAL			**4,986**	**4,986**	**4,986.00**	**4,985.02**	
4. PHA Wide Audit Costs	Annual Audit	1411						
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
5. PHA Wide Fees and Costs		1430		348,568	348,568	348,568.00	348,568.00	
	SUBTOTAL			**348,568**	**348,568**	**348,568.00**	**348,568.00**	
6. WA 3-1 Westpark		1450						
	1. Nursery/Landscape Training Program		6	0				
	2. Erosion Control			0				
	3. Sec. 504 Accessibility Improvements							
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
7. WA 3-8 Tara Heights		1450						
	1. Nursery/Landscape Training Program							
	2. Erosion Control			20,000	20,000	20,000.00		
	3. Sec. 504 Accessibility Improvements							
	SUBTOTAL			**20,000**	**20,000**	**20,000.00**	**0.00**	

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form HUD - 52837 (10/96)
ref Handbook 7485.3

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Annual Statement / Performance and Evaluation
Comprehensive Grant Program (CGP) **Part II: Supporting Pages**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/# HA - Wide Activities	General Description of Major Work Categories	Devel. Acct. Number	Quantity	Total Estimated Cost		Total Actual Cost		Status of Proposed Work (2)
				Original	Revised (1)	Funds Obligated (2)	Funds Expended (2)	
8. WA 3-1 Westpark	1. Furnace Replacement	1460		1,000	2,000	2,000.00		
	2. Roof Replacement			3,000	3,000	3,000.00		
	3. Water Heater Replacement			1,000				
	SUBTOTAL			**5,000**	**5,000**	**5,000.00**	**0.00**	
9. PHA Wide Non-Dwelling Structures	1. WPCC Sec. 504 Accessibility Improvements	1470						
	2. Laundry Room Sec. 504 Accessibility Improvements							
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
10. PHA Wide Demolition	Demolition	1485		0				
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
11. WA 3-1 Relocation		1495						
	1. Physical Relocation of PH Residents		269	291,311	291,311	291,311.00	608.63	
	4. Relocation Coach		3	145,100	148,500	148,500.00	148,500.00	
	5. Logistics Specialist		1	48,400	45,000	45,000.00		
	SUBTOTAL			**484,811**	**484,811**	**484,811.00**	**149,108.63**	
	GRAND TOTAL			**1,149,046**	**1,149,046**	**1,149,046.00**	**788,342.65**	

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form HUD - 52837 (10/96)
ref Handbook 7485.3

Annual Statement/Performance and Evaluation Report
Comprehensive Grant Program **(CGP) Part III: Implementation Schedule**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/Number HA - Wide Activities	All Funds Obligated (Quarter Ending Date)			All Funds Expended (Quarter Ending Date)			Reasons for Revised Target Dates (2)
	Original	Revised (1)	Actual (2)	Original	Revised (1)	Actual (2)	
WA 3-1 Westpark	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
WA 3-8 Tara Heights	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
PHA Wide							
Management Improvements	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Operations	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Audit Costs	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Administrative Costs	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Non-Dwelling Structures	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Fees & Costs	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Demolition	9/30/2008	9/30/2008		9/30/2010	9/30/2010		
Relocation	9/30/2008	9/30/2008		9/30/2010	9/30/2010		

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

Annual Statement / Performance and Evaluation Report
Comprehensive Grant Program **(CGP) Part I: Summary**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

HA Name	Comprehensive Grant Number	FFY of Grant Approval
HOUSING AUTHORITY OF THE CITY OF BREMERTON	**WA19P003501-05**	**2005**

☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ■ Revised Annual Statement/Revision Number 4 ■ Performance & Evaluation Report for Program Year 2005
☐ Final Performance & Evaluation Report

Line #	Summary by Development Account	Total Estimated Cost		Total Actual Cost (2)	
		Original	Revised (1)	Obligated	Expended
1	Total Non-CGP Funds				
2	1406 Operations (May not exceed 10% of line 19)	83,900	83,900	83,900.00	83,900.00
3	1408 Management Improvements	315,994	315,994	315,994.00	311,024.00
4	1410 Administration	8,138	8,138	8,138.00	8,137.51
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs	568,962	568,962	568,962.00	568,962.00
8	1440 Site Acquisition				
9	1450 Site Improvement	224,000	174,313	174,313.00	169,312.52
10	1460 Dwelling Structures	0	0	0.00	0.00
11	1465.1 Dwelling Equipment - Non-Expendable				
12	1470 Non-Dwelling Structures	0	0	0.00	0.00
13	1475 Non-Dwelling Equipment				
14	1485 Demolition				
15	1490 Replacement Reserve				
16	1495.1 Relocation Costs	60,718	110,405	110,405.00	56,877.82
17	1498 Mod Used for Development				
18	1502 Contingency (may not exceed 8% of line 19)				
19	Amount of Annual Grant (sum of lines 2-18)	1,261,712	1,261,712	1,261,712.00	1,198,213.85
20	Amount of line 19 Related to LBP Activities				
21	Amount of line 19 Related to Section 504 Compliance	0	0	0.00	0.00
22	Amount of line 19 Related to Security				
23	Amount of line 19 Related to Energy Conservation Measures				

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director & Date	Signature of Public Housing Director/Office of Native American Programs Administrator & Date
X Kurt Wiest Date:	X

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

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Annual Statement / Performance and Evaluation
Comprehensive Grant Program (CGP) **Part II: Supporting Pages**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/# HA - Wide Activities	General Description of Major Work Catagories	Devel. Acct. Number	Quantity	Total Estimated Cost		Total Actual Cost		Status of Proposed Work (2)
				Original	Revised (1)	Funds Obligated (2)	Funds Expended (2)	
1. PHA Wide Operations	Operations expenses - 10% of grant	1406		83,900	83,900	83,900.00	83,900.00	
	SUBTOTAL			**83,900**	**83,900**	**83,900.00**	**83,900.00**	
2. PHA Wide Management Improvements	1. Resident Initiative	1408	6	240,585	240,585	240,585.00	240,615.00	
	2. Resident Training Programs	1408		5,000	5,000	5,000.00	0.00	
	3. Police contract	1408	1	70,409	70,409	70,409.00	70,409.00	
	SUBTOTAL			**315,994**	**315,994**	**315,994.00**	**311,024.00**	
3. PHA Wide Administrative Costs	1. Wages and benefits	1410		8,138	8,138	8,138.00	8,137.51	
	SUBTOTAL			**8,138**	**8,138**	**8,138.00**	**8,137.51**	
5. PHA Wide Fees and Costs	1. Development Services/Construction	1430		568,962	568,962	568,962.00	568,962.00	
	SUBTOTAL			**568,962**	**568,962**	**568,962.00**	**568,962.00**	
Westpark WA 3-1 Tara Heights WA3-8	1. Site improvement/Erosion Control	1450		219,000	169,313	169,313.00	169,312.52	
	2. Site improvement/Erosion Control	1450		5,000	5,000	5,000.00		
	SUBTOTAL			**224,000**	**174,313**	**174,313.00**	**169,312.52**	
8. WA 3-1 Westpark	1. Furnace replacement	1460	5	0	0			
	2. Water heater replacement	1460	30	0	0			
	3. Roof replacement	1460	14	0	0			
	4.Section 504 Compliance	1460		0	0	0.00	0.00	
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	

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Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

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Annual Statement / Performance and Evaluation
Comprehensive Grant Program (CGP) **Part II: Supporting Pages**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/# HA - Wide Activities	General Description of Major Work Categories	Devel. Acct. Number	Quantity	Total Estimated Cost		Total Actual Cost		Status of Proposed Work (2)
				Original	Revised (1)	Funds Obligated (2)	Funds Expended (2)	
9. PHA Wide Non-Dwelling Structures	1. Parking Lot Repairs (Sect 504 Compl)	1470		0		0.00	0.00	
	SUBTOTAL			**0**	**0**	**0.00**	**0.00**	
10. Westpark Redevelopment	1. Relocation	1495.1		60,718	110,405	110,405.00	56,877.82	
	SUBTOTAL			**60,718**	**110,405**	**110,405.00**	**56,877.82**	
	GRAND TOTAL			**1,261,712**	**1,261,712**	**1,261,712.00**	**1,198,213.85**	

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form HUD - 52837 (10/96)
ref Handbook 7485.3

Annual Statement/Performance and Evaluation Report
Comprehensive Grant Program (CGP) **Part III: Implementation Schedule**

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

OMB Approval No. 2577-0157 (exp. 7/31/98)

Development Name/Number HA - Wide Activities	All Funds Obligated (Quarter Ending Date)			All Funds Expended (Quarter Ending Date)			Reasons for Revised Target Dates (2)
	Original	Revised (1)	Actual (2)	Original	Revised (1)	Actual (2)	
WA 3-1 Westpark	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
WA 3-8 Tara Heights	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
PHA Wide							
Management Improvements	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
Operations	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
Administrative Costs	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
Non-Dwelling Structures	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
Fees & Costs	9/30/2007	9/30/2007		9/30/2009	9/30/2009		
Relocation	9/30/2007	9/30/2007		9/30/2009	9/30/2009		

(1) to be completed for the Performance and Evaluation Report or a Revised Annual Statement. (2) to be completed for the Performance and Evaluation Report.

Signature of Executive Director and Date	Signature of Public Housing Director/Office of Native American Programs Administrator and Date
Kurt Wiest Date:	

Facsimile of form **HUD - 52837** (10/96)
ref Handbook 7485.3

HOUSING AUTHORITY OF THE CITY OF BREMERTON

Community Service Description of Implementation

The Housing Authority of the City of Bremerton (BHA) has fully implemented the Community Service Requirement in compliance with 24 CFR 960. Implementation has included:

- An amendment to the Public Housing Lease (completed in 2005);
- Development of the written description of the service requirement (included in the BHA ACOP);
- Written notification to residents regarding requirement or exempt status of each adult family member (updated at least annually as outlined in BHA's ACOP); and
- Entering into a cooperative agreement with TANF agencies to assist BHA is verifying residents' status (included as an attachment to the Annual Plan).

The types of activities that residents who are subject to community service requirements may participate in to fulfill their obligations are community service, work activities, or an economic self-sufficiency program. All of these activities are further defined in BHA's Admissions and Continued Occupancy Policy (ACOP).

Partner agencies that may offer residents opportunities to fulfill requirements include WorkSource, Kitsap Community Resources, Red Cross, Catholic Community Services, Girl Scouts, Boys and Girls Club of Kitsap County, Bremerton School District, etc.

The process to cure non-compliance is outlined in BHA's ACOP and cited below:

> The notice of initial noncompliance will be provided at least 45 days prior to the end of the lease term.
>
> The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.
>
> If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the BHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.
>
> If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the BHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Attachment (4)

110 Russell Road · P.O. Box 4460 · Bremerton, WA 98312 · Phone: (360) 479-3694 · TTY: (360) 377-8606 · Fax: (360) 616-8558

The Housing Authority of the City of Bremerton (BHA) does not discriminate on the basis of race, color, creed, national origin, religion, disability, sex, sexual orientation, age (over 40), military status, whistleblower retaliation, or familial status in admission or access to its programs.
If you need to request a reasonable accommodation, contact the BHA Section 504 Coordinator at (360) 479-3694.

Equal Housing Opportunity

Barrier Free

HOUSING AUTHORITY OF THE CITY OF BREMERTON

ADMINISTRATIVE PLAN

FOR THE

HOUSING AUTHORITY OF THE CITY OF BREMERTON

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

05/21/07 Approved by the BHA Board of Commissioners; Resolution No. B07-05

05/25/07 Submitted to HUD

05/29/07 Receipt of Acknowledgement by HUD *(Approval Not Required, per Rosanne Chavez, Public Housing Revitalization Specialist/HUD)*

04/21/08 BOC Approved Changes: Chapter 2, 3, 4, 6, 9, 12 &16

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Equal Housing Opportunity

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Introduction

REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

Authority for BHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs BHA 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 BHA policy.

HUD

HUD provides the primary source of BHA 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 the BHA through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for BHA policy. Following HUD guidance is optional, as long as BHA 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, BHA reliance on HUD guidance provides BHA 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, BHA must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, BHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support BHA 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

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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 BHA 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/eivsecguideBHA.pdf
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm

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Document and Location
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 (BHA) 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

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Document and Location
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 BHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. BHA is not a federal department or agency. A public housing agency (BHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. BHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. BHA 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 BHA 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 Public Housing Agency (BHA). This part includes a description of BHA, 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:BHA

1-I.A. OVERVIEW

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for the City of Bremerton and Kitsap County by the Housing Authority of the City of Bremerton. Administration of the Section 8 Program and the functions and responsibilities of the Housing Authority of the City of Bremerton staff

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shall be in compliance with BHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Housing Choice Voucher regulations as well as all Federal, State, and local Fair Housing laws and regulations.

1-I.B. ORGANIZATION AND STRUCTURE OFBHA

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 City of Bremerton (BHA)]** for the jurisdiction of **City of Bremerton and Kitsap County.**

The officials of a BHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which BHA conducts business, ensuring that policies are followed by BHA staff and ensuring that BHA 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 BHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of BHA.

The principal staff member of BHA 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 BHA's staff in order to manage the day-to-day operations of BHA 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. BHA 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.

<u>BHA Policy</u>

BHA's mission is to attempt to relieve the shortage of safe, decent and affordable housing available to low-income persons; to create opportunities for residents to increase their self-sufficiency and independence; and to assure fiscal integrity in all programs it administers.

To achieve this mission, BHA strives to:

- Recognize the residents as its ultimate customers.

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- Develop problem-solving partnerships with the private sector, HUD, local governments and the community.

- Improve management and service delivery efforts through resource management, risk assessment, and implementation by trained, diagnostic, and results-oriented staff.

- Implement resident initiative programs that offer opportunities such as skills and educational training, the possibility of homeownership and substance abuse programs.

1-I.D.BHA'S PROGRAMS

The following programs are included under this administrative plan:

BHA Policy

The BHA's administrative plan is applicable to the operation of the Housing Authority of the City of Bremerton and Kitsap County Consolidated Housing Authority Housing Choice Voucher programs.

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

As a public service agency, BHA is committed to providing excellent service to HCV program participants – families and owners – in the community. BHA'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 which 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.

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- Create positive public awareness and expand the level of family, owner, and community support in accomplishing BHA'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 BHA's support systems and commitment to our employees and their development.

The BHA 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 <u>family</u>, 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 <u>unit</u>, should the family decide to move). Consequently, the Certificate program was characterized as <u>tenant-based</u> assistance, rather than unit-based assistance.

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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. BHA is afforded choices in the operation of the program which are included in BHA's administrative plan, a document approved by the board of commissioners of BHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in BHA's jurisdiction and may also be eligible to move under portability to other BHA's' jurisdictions.

When a family is determined to be eligible for the program and funding is available, BHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, BHA will enter into a contract with the owner and the family will

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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. BHA 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, BHA enters into a contractual relationship with HUD. BHA 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, BHA, 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.

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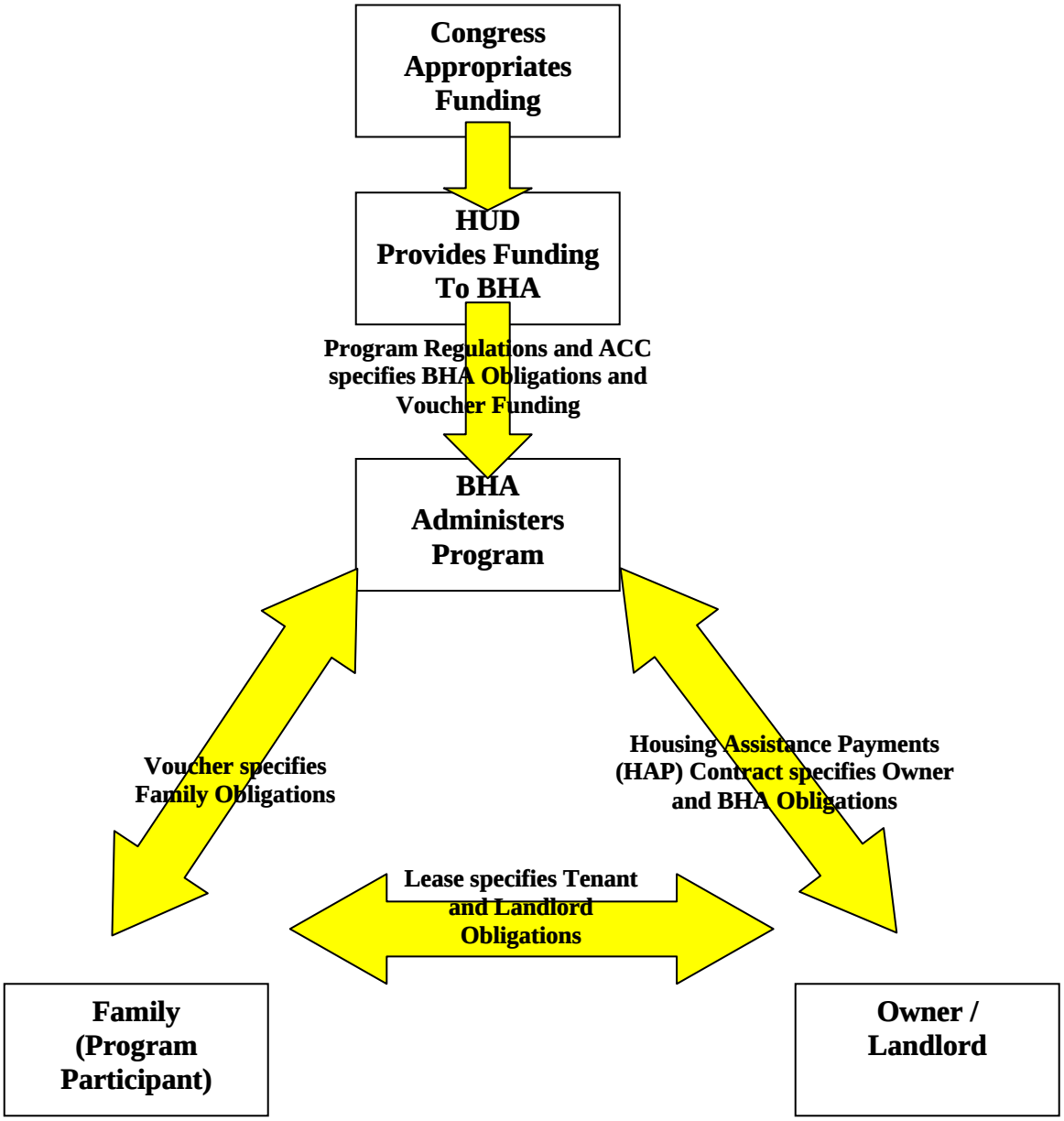
The HCV Relationships:



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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 BHA;
- Provide technical assistance to BHA on interpreting and applying HCV program requirements;
- Monitor BHA compliance with HCV program requirements and BHA performance in program administration.

What does HA do?

The BHA 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, if necessary, 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, BHA's administrative plan, and other applicable federal, state and local laws.

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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 BHA 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 HA;
- 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 BHA with complete and accurate information, determined by BHA 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 BHA;
- Allow BHA 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;

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- Not engage in drug-related or violent criminal activity;
- Notify BHA 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 BHA 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 BHA's agency plan. This administrative plan is a supporting document to BHA agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define BHA'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 BHA 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.

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Administration of the HCV program and the functions and responsibilities of BHA staff shall be in compliance with BHA'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 [24 CFR 982.54]

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

- Selection and admission of applicants from BHA waiting list, including any BHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening BHA waiting list (Chapter 4);

- Issuing or denying vouchers, including BHA 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 BHA decides to allow extensions or suspensions of the voucher term, BHA administrative plan must describe how BHA determines whether to grant extensions or suspensions, and how BHA determines the length of any extension or suspension (Chapter 5);

- Any special rules for use of available funds when HUD provides funding to BHA 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);

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- 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 BHA of amounts the family owes BHA (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
- BHA 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 BHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies BHA has adopted. BHA's administrative plan is the foundation of those policies and procedures. HUD's directions require BHA to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a BHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a BHA 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 BHA should carefully think through those decisions.

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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 BHA 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.

BHA Policy

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

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CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing 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 public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal* Register ("Notice of Guidance").

The BHA's Section 504 Coordinator is responsible for monitoring BHA's compliance with its reasonable accommodation policy as outlined in this Chapter. Individuals who have questions regarding this policy, its interpretation, or implementation should contact BHA's Section 504 Coordinator in writing, by telephone, or by appointment as follows:

April Davis, Section 504 Coordinator
P.O. Box 4460
Bremerton, WA 98312
adavis@bremertonhousing.org
(360) 479-3694 Phone
(360) 377-8606 TTY Number
(360) 782-9591 Fax

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Part I: Nondiscrimination

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families 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 PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

2-I.B. NONDISCRIMINATION

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

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

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

PHA Policy

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

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment

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- 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 tenant 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

The PHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the PHA will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or tenant family's assertions have merit and take any warranted corrective action.

PHA Policy

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

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

The PHA 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).

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Part II: Policies Related To Person With Disability

2-II.A. OVERVIEW

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

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

PHA Policy

This policy sets forth the criteria and the process by which BHA shall fulfill its legal obligations to reasonably accommodate the needs of tenants and other recipients of BHA services or applicants. This policy also sets forth the criteria and the process by which BHA will make reasonable modifications to its premises to make them accessible for use by disabled persons.

BHA does not intend this policy to enlarge its legal obligations.

The procedures set forth in this policy provide the grievance process required by 24 C.F.R. § 8.53(b) and 28 C.F.R. § 35.107(b), along with the additional complaint and grievance procedures of *BHA Grievance Procedure for Tenants, Voucher Holders, and Applicants.*

BHA intends the procedure in this policy to provide a reasonable balance between informality and structure. Informality allows BHA staff to respond quickly to a request for accommodation/modification. Informality also can encourage a hospitable interactive discussion with people seeking accommodation/modification unburdened by formal structure. More formality can slow down BHA's response and be less hospitable. However, a more formal process can also provide better assurance that BHA's response is informed, correct, and well documented. In general, this policy tries for a balance by providing a faster, less formal process for approving requests and a more formal process for denials.

Sources used for this policy include:

► Fair Housing Act ~ 42 U.S.C. § 3601 et seq **~ 24 C.F.R. Part 100 et seq** ~ H 02-03 (May 3, 2002) ~ PIH 2003-31 (November 26, 2003) **~ Joint Statement of HUD and DOJ on Reasonable Accommodation under the Fair Housing Act (May 17, 2004)**	► American with Disabilities Act ~ 12 U.S.C. § 12101 et seq ~ 28 C.F.R. Part 35 ~ 29 C.F.R. § 1630

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► Washington Law Against Discrimination ~ Chap. 49.60 RCW ~ Chap. 162-26 WAC ~ Chap. 162-38 WAC	► Section 504 of the Rehabilitation Act of 1973 ~ 29 U.S.C. § 794 ~ 24 C.F.R. Part 8

Parties Responsible for Compliance with Policy

Who	Responsibilities
All BHA Staff	All staff must be alert for the needs that disabled persons (other staff, tenants, Voucher holders, and applicants) may have for reasonable accommodation/modification under this policy. When appropriate, staff should offer to help persons who appear to need help making a request under this policy for reasonable accommodation/modification.
Section 504 Coordinator	► BHA's Section 504 Coordinator is designated as BHA's Civil Rights Compliance Coordinator. This means that he or she has the following duties: ► Coordinate and monitor BHA's compliance with this policy; ► Coordinate BHA's compliance with Section 504 and the ADA pursuant to 24 C.F.R. § 8.53(a), and 28 C.F.R. § 35.107(a). ► Chair and Staff the Reasonable Accommodation Review Committee pursuant to this policy; ► Mail all notices under this policy; ► Proper storage of the records under this policy; ► Compile data on BHA's compliance under this policy; ► Arrange for training as appropriate for staff with responsibilities under this policy. ► Responsible for reviewing reasonable accommodation/modification request. Section 504 Coordinator is responsible for making a decision on the request. ► Serve as First and Second Line Staff person on requests for reasonable accommodations that do not fall within the responsibility of anyone else.
Housing Specialists Property Managers Relocation Coaches	*First Line Staff*: These staff are responsible for receiving requests for accommodation/modification from persons within their areas of responsibility. They are responsible for gathering information necessary to assess the request and making a recommendation to the Second Line Staff. They are also responsible for being the BHA contact for the requester and guiding that person through the process set out in this policy.
Department Director HCV Manager Property Manager Affordable Housing Manager Relocation Manager Resident Initiatives Manger	*Second Line Staff:* These staff are responsible for reviewing the information gathered by the First Line staff person in their departments and that person's recommendation for each request for reasonable accommodation/ modification. Second Line Staff are responsible for recommending a decision on the request and forwarding all information to the Section 504 Coordinator.
Reasonable	Reviews all denials of reasonable accommodation/modification

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Accommodation Review Committee	requests or requester appeals from modified approvals. The members of the Committee are: ► Section 504 Coordinator, Chairperson ► Director of Housing Programs or designee, Vice Chairperson ► BHA staff person chosen by Executive Director ► Representative of community organization that serves disabled persons, chosen by Executive Director
Executive Director	The Executive Director must approve all accommodations/modifications that cost more Than $ 2,000 in any one year.

2.II.B. DEFINITIONS

Disability	"Disability" means the following: 1. A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. OR 2. The presence of a sensory, mental, or physical impairment That: (i) Is medically cognizable or diagnosable; or (ii) Exists as a record or history; or (iii) Is perceived to exist whether or not it exists in fact. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.
Impairment	"Impairment" includes, but is not limited to: (i) 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, genitor-urinary, hemic and lymphatic, skin, and endocrine; or (i) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

2.II.C. OBLIGATION TO REASONABLY ACCOMMODATE/MODIFY

Upon receiving a request to do so, BHA will make reasonable accommodation in rules, policies, practices, or manner of its services when such accommodation is necessary to afford a qualified disabled person equal opportunity to use and enjoy BHA employment, housing, common areas, programs, or facilities, including public and common use areas.

Upon receiving a request to do so, BHA will make reasonable modification to its existing premises if necessary to afford a qualified disabled person full enjoyment

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of its programs. BHA will pay for requested modifications to its property that BHA approves pursuant to this policy.

BHA's rules, policies, or practices are not required to produce equal results or levels of achievement for individuals with disabilities and non-disabled persons but only must afford disabled persons an equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement.

2. II. D. CRITERIA FOR BHA'S OBLIGATION TO ACCOMMODATE OR MODIFY

BHA will grant requests for accommodation or modification that are shown with adequate verification to satisfy all of the following four criteria.

Criteria 1: Request
BHA must receive a request for the accommodation or modification. The request does not have to come from the disabled person in question. Another person may make the request on behalf of the disabled person. The request does not have to be in any particular form. It may be verbal. The person should use the BHA-approved form however if they are unable to do so a BHA staff person will assist them.

Criteria 2: Disability
The accommodation or modification must be for a person who fits the definition of disability. It is not necessary for BHA to know the details of a disability. BHA will not require a person to grant it access to confidential medical records in order to verify a disability. It is enough to get verification of the manifestation of the disability from someone who is in a position to know. That person need not have a medical degree or a particular expertise. However, BHA must have adequate confidence in their judgment and competence. BHA's staff may also know enough about a requester to assess whether the person is disabled.

Criteria 3: Necessity for Reasons Substantially Related to the Disability
The requested accommodation or modification must be necessary for the disabled person's full enjoyment of BHA programs, facilities, or employment, or premises, and the necessity must be substantially related to the disability.

BHA is not obliged to provide an accommodation or modification that, although not necessary, would be beneficial or convenient.

BHA is also not obliged to provide an accommodations or modifications that may be necessary to the tenant but for reasons that are not substantially related to the disability.

Criteria 4: Reasonableness
The requested accommodation or modification must be reasonable. A request is not reasonable if any of the following are true:

(a) Undue Administrative Burden on BHA
The request would, if approved, impose an undue administrative burden on BHA. This may mean that the request would require more staff time than BHA has available.

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BHA will determine on a case by case basis whether a request would impose an undue administrative burden. Relevant factors include: the administrative cost or burden of the requested accommodation in comparison with the administrative cost of regular operation; limits or availability of BHA's overall resources; the benefits that the accommodation would provide to the requester, and the availability of other, less expensive alternative accommodations that would effectively meet the requester's disability-related needs.

(b) Undue Financial Burden on BHA

The request would, if approved, impose an undue financial burden on BHA. This may mean that the request would cost money that BHA does not have.

BHA will determine on a case-by-case basis whether a request would impose an undue financial burden. Relevant factors include: the financial cost of the requested accommodation compared with the cost of the regular operation, availability and limits of BHA's overall financial resources; whether BHA has specifically budgeted money for the purpose and whether any of that money remains for the fiscal period; the benefits that the accommodation would provide to the requester, and the availability of other, less expensive alternative accommodations that would
effectively meet the requester's disability-related needs.

(c) Fundamental Alteration in the Nature of BHA's Program(s)

The request would, if approved, fundamentally alter BHA's program(s). In the case of a request from an employee, the request is not reasonable if it would not allow the employee to perform the essential functions of his or her job.

If the requested accommodation/modification is not reasonable, BHA will explore other accommodation/modifications that would address the person's need and that would be reasonable. If these alternatives are available, BHA will offer them.

2.II.E. BURDEN OF PROOF

The person making the request has the burden of showing that the first three of the four criteria in the above section are satisfied. Under the fourth criteria, BHA bears the burden of showing that the request is not reasonable.

2.II.F. REVIEW OF REASONABLE ACCOMMODATIONS/MODIFICATIONS

All Reasonable Accommodation/modification approvals are subject to BHA's later review, modification, or withdrawal. BHA may request more information during such reviews to determine the continued need and/or reasonableness of the accommodation. For BHA Program participants, BHA will review approvals at least once a year during any applicable annual recertification.

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2.II.G. OUTLINE OF PROCEDURE

This graphic is a summary outline of the procedure. Sections below describe the process in more detail.

BHA's Receipt of Request for Accommodation or Modification

First Line Staff Recommendation

If Requester is	*First Line Staff is*
BHA staff/Job Applicant	Resident Initiatives Manager
Tenant/Applicant for Housing	Housing Assistant/Specialist; Property Mgr
Voucher Client/Applicant	Housing Specialist
Community Service Client/Applicant	Section 504 Coordinator
Other	

- receive request
- send copy to Section 504 Coordinator
- investigate merits of request
- discuss with requester; seek agreement
- make recommendation
- send form to Second Line Staff (generally within **ten (10) working days** of BHA's receipt of request)

Second Line Staff Decision

If First Line Staff is	*Second Line Staff is*
Property Mgr	Housing Director
Housing Assistant/Housing Specialist	HCV or Property Manager
Relocation Coach	Relocation Manager
Section 504 Coordinator	

- make decision (***Executive Director must approve all accommodations costing> $2,000 in any one year)***
- record decision on and send to Section 504 Coordinator generally within **five (5) working days** of receipt of First Line Staff recommendation.

Section 504 Coordinator sends letter to requester announcing decision, generally within **five (5) working days** of receiving the matter from the Second Line Staff person.

Initial Denial Letter
Copy to First and Second Line Staff Person

Letter explains Review Committee process and invites requester to request review by Reasonable Accommodation Review Committee.

Available Appeal to Reasonable Accommodation Review Committee if requester is not satisfied with approval and if Committee had not yet reviewed it.

Review by Reasonable Accommodation Review Committee

- committee should convene promptly
- requester may participate
- discussion
- decision
- record decision on and send to Section 504 Coordinator

Approval
from Section 504 Coordinator
[copy to First and Second Line Staff]

Final Denial
from Section 504 Coordinator

[copy to First and Second Line Staff]

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2.II.H. BHA STAFF RESPONSIBILITIES; REASONABLE ACCOMMODATION REVIEW COMMITTEE

Time Lines in This Policy

This policy sets forth general time lines for each stage of the process. By those time lines, BHA will generally give an initial response within twenty (20) working days of receiving a request. However, these are only general guidelines. Several factors will affect how long it should take. **First**, BHA should take a much shorter time to answer requests that BHA should clearly grant because the basis for them is clear. *E.g*, BHA should not need much time to allow a clearly qualified service animal to a tenant who is clearly visually impaired or to approve the installation of a shower grab bar for a tenant who clearly needs one. In these cases, BHA staff should speed up each stage of the process to approve the request within a few days. **Second**, BHA should speedily respond to a request for an accommodation that also is necessary to address a safety threat. As appropriate in such cases, staff can rely on verbal approval and allow the paperwork of this policy catch up later. **Third**, BHA may also require more time than the general time lines set forth in this policy to answer a request that presents hard questions or that is based upon facts that are not clear.

Receiving and Investigating Requests and Making Assessments

The BHA staff designated below will have the indicated responsibilities to respond to requests for accommodation/modification.

Person Seeking Accommodation/ Modification	**FIRST LINE STAFF** **► Receive Request** **► Gather Information** **► Discuss with Requester** **► Make Recommendation** **► Guide requester through process**	**SECOND LINE STAFF** **Make Decision recommendation**
Tenant/Applicant for Housing	Housing Assistant/Specialist; Property Mgr	Housing Director or Property Manager
Voucher Client/Applicant	Housing Specialist	HCV or Property Manager
Community Service Client/Applicant	Resident Initiatives Manager	
Other	Section 504 Coordinator	
	Executive Director must approve all accommodations costing > $2,000 in any one year	

Designation of Reasonable Accommodation Review Committee

BHA shall have a Reasonable Accommodation Review Committee as follows:

(a) <u>Committee Membership</u>

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The following persons shall constitute the Reasonable Accommodation Review Committee. This shall be a standing Committee.

(i) BHA Section 504 Coordinator, Chair and Staff to the Committee

(ii) Housing Programs Director; or designee;

(iii) Another BHA staff person (preferably a person who is disabled or has a personal acquaintance with the needs of disabled persons), appointed by the Executive Director; the Executive Director may change this appointment at any time.

(iv) A representative of a community organization that serves disabled persons, appointed by the Executive Director. The Executive Director may change this appointment at any time.

Anyone participating as a Committee member must have received reasonable accommodation training.

(b) Committee Responsibilities

(i) To review and adjudicate all appeal of denials of requests for accommodation or modification. For its review, the Committee shall use the criteria and procedures set forth in this policy;

(ii) To store the records of all reasonable accommodation/modification requests that BHA receives, with all associated documentation, and compile the data from these records to show their aggregate numbers, types of requests, outcomes, and other information useful for tracking BHA's compliance with this policy. BHA's Section 504 Coordinator shall be the custodian of these records;

(iii) To monitor BHA's compliance with this policy; to report annually on BHA's compliance to the Executive Director;

(iv) To recommend policy changes to the Executive Director and ways to improve BHA's compliance with the policy.

Training for Staff

All persons designated with responsibilities in this section shall first receive training on the duty of reasonable accommodation/modification.

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2.II.I. HOW TO REQUEST REASONABLE ACCOMMODATION/MODIFICATION

A person seeking accommodation/modification must request it from BHA or have someone else request it on his or her behalf.

The request need not be in any particular form. BHA will respond to verbal requests. In addition, the person making the request does not have to use any particular words. For example, the person does not have to ask explicitly for "reasonable accommodation."

A person seeking reasonable accommodation/modification may direct his or her request to the First Line staff persons designated above to receive and investigate requests. Any other staff person receiving a request should direct the request to these First Line staff persons. For example, many tenants will make their request of a maintenance staff person. The maintenance staff should help the tenant direct the request to the property manager. If necessary, the maintenance staff should convey the request him or herself to the property manager.

The person making the request should use the BHA-approved form. This form shall be available from any BHA office. It shall also be part of the orientation material given to tenants and Voucher holders.

The designated First Line staff person shall offer to help the person fill out the form. If the requester does not wish to use the form or if the request is verbal, the First Line staff person shall fill it out using information the requester provides. The First Line staff person who fills in the BHA-approved form for a person seeking reasonable accommodation/modification should read it back to the person and verify that it accurately reflects the person's intended request.

The First Line staff person shall remain the requester's guide and primary contact person throughout the process. The First Line staff person shall immediately email notice of the request to the Section 504 Coordinator. This copy serves to alert him or her about the request so he or she can track it through this policy.

2.II.J. FIRST LINE STAFF PERSON

Gather Information

The First Line staff person shall gather the information necessary to assess the request under the criteria mentioned above.

(a) <u>Sources of Information</u>

The following will be common sources of Information:

(i) ***Information That BHA already possesses***

BHA may already possess pertinent information. For example, BHA staff may already be quite familiar with a tenant or Voucher holder's disabilities. BHA is free to use this information to support or refute the request.

(ii) ***Disabled Person***

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The disabled person will usually know better than others the extent of his or her disabilities and related needs. The staff person should use the BHA-approved form to seek more information from the requester.

(iii) ***Third Parties***

Information from third parties is often helpful or necessary. Social service providers or medical providers, in particular, may have information needed to assess a request. To seek third party information, staff may use the BHA-approved form. The staff person should enclose the authorization for the release of information that the requester signed as part of the request packet. If the written information from a third party is unclear or needs clarification, staff should call them directly.

(b) <u>What information to seek and what not to seek</u>

BHA should seek only what it needs to know in order to assess the request for reasonable accommodation. *E.g*, that someone is disabled under the definition; that the requested accommodation is necessary for reasons related to the disability.

BHA does not need, and should not ask to know, the type of disability or diagnosis. The requester may volunteer this information, which may indeed be helpful to assess the request.

Interactive Discussion

The First Line staff person shall affirmatively engage the requester or his or her representative in an interactive discussion for the following purposes:

(a) To collect information that the requester has to provide;

(b) To help BHA understand the requester's needs and proposals;

(c) To help the requester understand BHA's needs and requirements;

(d) To fully explore all alternatives and seek an agreement on a solution. BHA may propose alternative ways to address the disabled person's needs. The goal is to find a solution for genuine needs. Agreements should be put in writing. Second Line Staff must sign all agreements for BHA. NOTE: the Executive Director must approve agreements that cost more than $ 2,000 in any one year.

Recommendation and Report

The First Line staff person will record the information and the various proposals discussed along with his or her recommendation on a BHA-approved form. He or she shall forward the form and accompanying

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information to the Second Line staff person designated to make the decision. He or she shall try to do so within five (5) working days from the date BHA received the request. If the request is urgent, he or she will try to do this more quickly.

2.II.K. SECOND LINE STAFF PERSON

Using the process below, the Second Line staff person shall make a decision about the request. In the normal course, he or she will do this within five (5) working days from the receipt of the First Line staff person's recommendation and within that time give the Section 504 Coordinator the record of the decision on the same form that the First Line Staff person used.

The Section 504 Coordinator will send the requester written notice of the decision.

If the Second Line Staff Person decides that BHA needs information to assess the request, he or she shall seek it, generally by asking the First Line Staff Person to collect it. In any event, the Second Line Staff Person is responsible for making and monitoring arrangements to procure the needed information and making a decision when the information arrives or doing without it if it proves unavailable within a reasonable time.

There are three types of decisions:

(a) Approval of request: In this event, the Second Line Staff Person shall be responsible for seeing to implementing the approved accommodation and modification and documenting that it gets done.

(b) Approval of alternate accommodation/modification:

(c) Denial, subject to review by the Reasonable Accommodation Review Committee:

The Section 504 Coordinator may reverse or modify a decision, generally on legal grounds.

2.II.L. EXECUTIVE DIRECTOR APPROVAL

The Executive Director, of his or her designee, must approve all accommodations/modifications that cost more Than $ 2,000 in any one year.

The Executive Director has the authority to direct the approval or denial of any request.

2.II.M. SECTION 504 COORDINATOR

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The Section 504 Coordinator shall report the decision to the requester using the appropriate forms.

The approval may be for an alternative form of accommodation/ modification. The requester may not be satisfied with the alternation. He or she may request an informal review before the Reasonable Accommodation Review Committee to review the matter. He or she may participate in the review.

A response may be a mix of both approval and denial. The Section 504 Coordinator should use that form that seems to fit best. Either form allows the requester to seek the Committee's review.

The Section 504 Coordinator will then send a copy of the letter to the First and Second Line Staff Person. This will inform them and help them learn.

2.II.N. REASONABLE ACCOMMODATION REVIEW COMMITTEE

BHA's Reasonable Accommodation Review Committee will review all requested reasonable accommodation/modification appeals. It shall apply the criteria listed above.

Committee Process

(a) The CRCC shall convene the Committee whenever necessary under this policy.

(b) The Committee Chairperson shall preside. In his or her absence, the Vice-Chair shall preside.

(c) Three Committee members shall constitute a quorum.

(d) The Second Line Staff Person whose decision is being reviewed will present the decision and the basis for it. If he or she is also a Committee member he or she shall not vote in the Committee's decision. In that event, the CRCC may appoint a temporary replacement on the Committee for the case.

(e) The Committee shall decide by a majority vote of members voting; a tie vote upholds the decision under review. PROVIDED that the Civil Rights Compliance Coordinator may direct a reversal of a denial on legal grounds without regard to the majority vote.

(f) The Committee's process shall be informal and conducive to a speedy and informed decision.

If Requester or His or Her Representative Chooses to Participate

If the requester or his representative chooses to participate in the Committee's review, then the following additional procedures will apply:

(a) The requester may appear before the Committee in person or through a representative that he or she affirmatively authorizes.

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(b) The Committee shall schedule its meeting so as to reasonably accommodate the schedule of a requester and/or his or her representative.

(c) The requester or his or her representative may, in advance of the Committee's meeting, review and copy at BHA expense any documentation that the Committee will rely upon in the matter.

(d) The requester or his or her representative may make a presentation in support of the request.

(e) The Second Line Staff Person for the matter shall then present the basis for the denial.

(f) The Committee may consider new information presented at the review.

Committee's Decision

The Committee shall make a decision as promptly as reasonably possible after the conclusion of the review. The Civil Rights Compliance Officer may overrule the Committee. The Executive Director must approve any accommodation/modification that costs more Than $ 2,000 in any one year.

Final Decision

The Committee's decision shall be final subject to the authority of the Section 504 Coordinator and the Executive Director to overrule its decision.

Other Grievance Processes

BHA will use the procedures in this policy to respond to requests for reasonable accommodation/modification. Some persons also have access to other grievance processes within BHA: *i.e.*

Tenants **Voucher Holders**	Grievance Procedure for Tenants, Voucher Holders and Applicants
BHA Staff	**BHA Personnel Policy**

Persons with access to these other BHA grievance processes may **not** use them merely because they are dissatisfied with the answer that emerged from this policy's procedures in an attempt to get a different answer. Instead, persons may use the other processes only to complain that BHA failed to follow the procedure in this reasonable accommodation/ modification policy. In that event, the other process may direct BHA to try again under the procedures of this policy, correcting any failure of process.

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2.II.O. REVIEW OF APPROVALS

All approvals are subject to review, modification or withdrawal to account for a change in circumstances. BHA will review them at least annually or whenever it has reason to believe a change in circumstances may warrant modification or withdrawal of an approved accommodation/modification. For BHA Program participants, BHA will review approvals at least once a year during any applicable annual recertification.

2.II.P. GUIDELINES AND EXAMPLES FOR REASONABLE ACCOMMODATION/MODIFICATION

Below are some general guidelines and examples in applying the reasonable accommodation policy.

GENERAL GUIDELINES	
1	Interactive and Good Faith Discussions to Find a Solution BHA staff and the requester must work together in an "interactive" process to identify genuine needs and seek solutions. They both must make a good-faith effort to do this. ► BHA staff should make the process as easy as possible for the requester to use; ► BHA staff should make clear that BHA takes its obligation seriously and remains ready to listen and to try and understand the request. The best way for BHA staff to start this discussion may be simply to ask, "What can I do for you?" ► The requester must cooperate by providing information that will help BHA understand and assess the request under the criteria of this policy. ► Both staff and the requester should show flexibility, creativity, and goodwill.
2	BHA Will Treat Every Request Individually BHA will assess each request for accommodation or modification individually. Whether BHA should approve or deny a request usually depends on facts particular to the individual requester's circumstances including the financial, administrative and programmatic limitations on BHA at the time. There are few standard formulas. What one person needs will be different from what other persons need. Similarly, BHA's financial and administrative abilities will also vary. What is reasonable in one situation or at one time may be unreasonable in another.
3	The Views Or Needs Of Other People In general, BHA will not consider what other people may think about the request. For example, other people may feel that BHA shows favoritism by allowing a disabled person to keep a service animal that is larger than the pet policy would otherwise allow to non-disabled persons. Similarly, they may object if BHA suspends an eviction for lease violations to give the disabled person a reasonable chance to control a problem that results from the disability. They may feel this is unequal treatment since the same behavior would result in their own eviction. These sentiments are not a reason to deny the disabled person's request. However, other people's needs are a legitimate part of the assessment of whether a request is reasonable. For example, the safety and peaceful enjoyment by other residents are funda-mental attributes of BHA's housing. An accommodation is not reasonable if it would jeopardize them.

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GENERAL GUIDELINES	
	Similarly, BHA cannot deny a request for fear that an approval would encourage other people to ask for the same accommodation. Instead, BHA should assess each request individually. It may be possible that too many requests would become unaffordable, too administratively burdensome, or work a fundamental alteration in the nature of BHA's employment or program. However, BHA should not deny a request by presuming that this will happen.
4	What if the requester does not provide enough information to support the request? The requester has the burden of providing the information that will support the request. BHA will reasonably help the requester do this. However, after a reasonable effort or period of time, BHA will make a decision on the request based upon the information that is available. If the information is not sufficient, BHA will deny the request. The requester can always submit another request later with more information.
5	What if more than one accommodation would work? If more than one reasonable accommodation/modification would fulfill the needs of the disabled person, BHA and the requester will try to agree on which one to use. If there is no agreement, BHA may choose the option that is less burdensome or expensive, as long as it meets the disabled person's needs.
6	Verification BHA is responsible for determining that each request meets the criteria necessary for approval. BHA will do this by requiring adequate verification from sources it deems to be credible. There are no hard rules for this assessment. Generally, BHA must be satisfied that a person who is providing the verification must have adequate knowledge of the facts and adequate skills or experience to offer a useful assessment.

HOW TO REQUEST REASONABLE ACCOMMODATION/MODIFICATION	
1	BHA's legal obligation to accommodate a disability arises when BHA receives a request to do so. Without a request, there is no obligation.
2	A request does not have to be in any particular form. It can be written or verbal. However, BHA staff should help the person put the request in writing using the appropriate form. This form helps to insure a record of the request and prompts a person to provide the information that BHA will need to assess the request. If the person does not want to fill out the form, the staff should fill out the form to create a written record of the request. The staff should make sure that the form accurately reflects the person's intended request.
3	A request does not have to contain or convey any special words. For example, a person does not have to use the words "reasonable accommodation."
4	A request does not have to come from the disabled person. Another person may make the request on behalf of the disabled person. However, in these cases, BHA must be satisfied that the disabled person has authorized the other person to speak for him or her. BHA staff should also be alert to situations where a person may appear to need help even if the person does not request it. In those situations, BHA staff should ask if they would like assistance.
IS A PERSON DISABLED?	
1	Whether or not a person is disabled is frequently evident to BHA staff. *E.g,* ► The person receives income conditioned on a finding of disability (Social Security Disability, SSI, GAU, residence in housing for disabled persons) ► BHA's staff may have sufficient acquaintance with the person to know that the person is disabled. *E.g*, the person may use a wheelchair.
2	If the disability is not evident, BHA needs verification from someone who has both the

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	competence and the necessary acquaintance with the person to make an informed assessment.
3	BHA is only interested to know if the person fits the definition of disability. It is generally unnecessary to know the type of disability or the specific condition or diagnosis.

IS THE REQUESTED ACCOMMODATION/MODIFICATION RELATED TO THE DISABILITY?	
1	A request must be related to the disability. For example, a sight-impaired employee may reasonably request a special computer monitor to allow him or her to perform the essential functions of the job. It is much less clear why the same employee needs a separate office away from office traffic. A separate office may be beneficial or even necessary for the person to perform the work. However, BHA would not approve this request without a showing that is necessary for reasons related to the disability.

IS THE REQUESTED ACCOMMODATION/MODIFICATION NECESSARY?	
1	The requested accommodation must be necessary. If the requester is a BHA employee, it must be necessary to allow him or her to perform the essential functions of the job. If the requester is a tenant, the requested accommodation must be necessary to allow him or her equal opportunity to use BHA's housing or other services. An accommodation or modification may be beneficial or convenient. That is not enough, however, to oblige BHA to approve it.

IS THE REQUESTED ACCOMMODATION/MODIFICATION REASONABLE?
BHA shall not grant a request for unreasonable accommodation/modification. A request is not reasonable if any of the following are true:
Undue Administrative burden to BHA
BHA is not obliged to approve a request that would impose an undue administrative burden. In general, this means that it would be too hard to do or would require work that BHA's staff does not have the time to do.
Undue Financial burden
BHA is not obliged to approve a request that would impose an undue financial burden. In general, this means that it would cost too much.

Fundamental alteration in the nature of the job or BHA's program	
The law does not oblige BHA to fundamentally change a job or the nature of its services even if the change would be necessary to a disabled person.	
Employment	
1.	Each job at BHA has essential functions. The adequate performance of these functions is fundamental to BHA. BHA will reasonably accommodate disabled employees in ways that will allow them to adequately perform the essential functions of their job. This means that BHA will consider changing aspects of their job or their working environment. Perhaps some additional equipment will be necessary and effective for this purpose to allow a sight or hearing impaired person perform the essential functions of a job. A person who has to receive medical treatment on a particular schedule may still be able to perform the essential functions of the job with a change in the working schedule. BHA will not be able to accommodate a disabled employee who, even with reasonable accommodation, cannot adequately fulfill the essential functions of the job.
2.	BHA will not be able to create a new job or vacancy for the purpose of accommodating a disabled employee.
Tenancy or Services	

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Below are examples of some fundamental features of BHA's housing and service programs. BHA will not be able to offer accommodations that alter them.	
1.	Rent Receiving full rent on time is fundamental to BHA's programs. Rent is a main source of income that allows BHA to serve its mission. BHA will consider reasonable accommodations that are necessary and effective in allowing a person to pay their rent on time and in full. *E.g,* ► accepting vouchers or payments from third persons who are helping the tenant manage their finances or affairs; ► changing the date that rent is due so that the tenant's rent is not habitually late on account of disability checks regularly arriving after the 1st of the month; ► accepting installment payments on rent arrears that arose from a mental health crisis if there is reasonable assurance that the person will be able to pay the amount due within a reasonable time. If this happens more than once, allowing installment payments a next time may be unreasonable.
2.	Complying with the lease A tenant's compliance with the lease is fundamental to BHA's program. BHA will consider reasonable accommodations that are necessary and effective in allowing a tenant to comply. *E.g*, ► *Sanitation*: A tenant's unit may have become unsanitary for reasons related to a disability. Perhaps the tenant lacks the physical or mental ability to comply, yet with supportive services would be able to do so. If the tenant can arrange for those services and cooperates with them to make them effective, BHA will consider delaying any eviction action to give the services a chance to work. Prior failures of services to work in this way or prior failures of the tenant to cooperate with service providers may make it unreasonable to give the tenant another chance.
3.	No Supportive Services BHA does not provide in-home care or other services designed to allow disabled persons to live independently. Providing such services would be a fundamental change in BHA's program. BHA will not be able to offer such services as an accommodation.
4.	Criminal Activity, Safety and Rights of Others The following are fundamental to BHA's programs: ► prohibition of criminal activity ► safety of all tenants, staff and neighbors ► the rights of other tenants to the peaceful enjoyment of their homes ► protecting BHA's property from damage A tenant may have threatened these fundamentals for reasons related to a disability. For example, he or she may have exhibited threatening behavior to neighbors because he or she needs medication for a mental illness. Taking the medications will effectively control the behavior. BHA will consider a request to forbear from eviction on the condition that the tenant cooperate with a prescribed treatment plan. In such cases, BHA will require adequate assurance that the treatment plan will work to prevent recurrence of the problem and that the tenant will comply with the plan. Past failures to do so may make another chance unreasonable.
5.	BHA's Compliance with Program Goals or Legal Requirements BHA's compliance with the policy and legal requirements of its housing or service programs is fundamental to those programs. *E.g* ► income restrictions that reserve housing or housing assistance to persons of specific

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	incomes; ► requirements for periodic verification of income and family composition; ► rules governing waiting lists for housing assistance set forth in BHA's annual plan. In general, BHA will not be able to waive these fundamental attributes of its programs in ways that would put BHA in violation of the laws or contracts that govern its programs.

SOME SPECIFIC EXAMPLES	
Service or Companion Animals	
	In general, animals can be necessary to disabled persons in two ways. First, the disabled person may need a trained service animal to assist with the person's specific disability, *e.g*. A guide dog for a person with visual impairments. In this event, the person will have to verify That the animal is trained for the purpose. Second, the animal may be necessary as a companion or coping mechanism for a person disabled by a mental or emotional impair-ment. Such "companion animals" do not need specific training. In either case, the person will have to verify their need for the animal. A person can verify this is varied ways. The general discussion in § 8.4.1 applies. In either case, the person will not have to pay the pet deposit or other fees under BHA's pet policy. However, the person must comply with those other aspects of the pet policy that do not unreasonably interfere with the use of the animal to address the need arising from the disability. For example: ► A disabled tenant may need a companion animal but will probably not need an animal that violates the pet policy's restrictions on size and breed. The question becomes harder if a disabled person needing a companion animal already has one when he or she moves into BHA's housing. In such a case, he or she may already have a long-term bond with the animal that is necessary to continue for reasons related to disability. In this case, the issue becomes whether the animal's size or breed are such as to make it unreasonable for BHA to allow. ► A disabled tenant must still register the animal under the BHA pet policy ► A disabled tenant is still responsible for the animal's behavior, care and sanitation so as to comply with the lease standards.
Communication Aids	
	To help BHA communicate with disabled persons, BHA will offer appropriate aids where necessary to afford a disabled person an equal opportunity to participate in and enjoy the benefits of BHA's programs or activities. BHA will readily provide the following: ► additional explanation of program rules; ► offer information in different ways (*e.g,* verbally, larger written type, plainer language; sign language interpreter or reader); ► exchange information with a representative or contact person that the disabled person designates for the purpose; ► Where a person communicates by telephone, BHA will when necessary use telecommunication devices for deaf persons (TDD) or other equally effective ways to communicate. *See* 28 C.F.R. § 35.160-.164; 24 C.F.R. § 8.6.
Requested Modifications to Dwelling Units	
	A disabled person may request BHA to modify his or her dwelling unit in ways that are

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	necessary to make the unit accessible to him or her. At its own expense, BHA will either (i) transfer the person to an available accessible unit or (ii) make the necessary modifications to the present dwelling unit if doing so does not impose an undue financial or administrative burden or fundamentally alter the nature of its housing program. BHA will make the reasonable modification to the present unit if (i) there are no other accessible units available within a reasonable time period; (ii) if the transfer would impose an unreasonable hardship to the tenant or applicant; or (iii) the modification would make the unit significantly more accessible for future disabled occupants of the unit.
Assignment or Transfer to an Accessible Unit	
	Assignment or transfers of persons to units designed to be accessible to persons with disabilities is governed by the Admissions and Continued Occupancy Policy.
Waiting List	
	BHA removes persons from its waiting lists who do not respond to BHA's requests for information or updates. If the applicant did not respond because of a family member's disability, BHA will reinstate the family to its former position on the waiting list.
Transportation	
	If BHA is providing transportation to functions or activities, on request it will provide accessible transportation to accommodate persons with disabilities and their aides.
Live-in Aides	
	Live-in aides are governed by Admissions and Continued Occupancy Policy.

2-II.Q. PHYSICAL ACCESSIBILITY

The PHA 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 PHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the public housing 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 PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA 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

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accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.R. DENIAL OR TERMINATION OF ASSISTANCE

A PHA'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 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the PHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation [24 CFR 966.7].

In addition, the PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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 BHA 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, BHA 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

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BHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on BHA.

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, BHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

BHA Policy

The BHA 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, BHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other BHA, and will standardize documents. Where feasible and possible, BHA 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 BHA. 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.

BHA Policy

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

The BHA will provide written translations of vital documents for each eligible LEP language group that constitutes five (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 five (5) percent trigger, BHA 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, BHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

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If BHA 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 BHA's Housing Choice Voucher program and services.

BHA Policy

If it is determined that BHA serves very few LEP persons, and BHA has very limited resources, BHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If BHA determines it is appropriate to develop a written LEP plan, 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 PHA) as constituting such a limitation; has none of the impairments defined in this

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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 public housing 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 definition of 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 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 public housing program, yet an accommodation is needed to provide equal opportunity.

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CHAPTER 3

ELIGIBILITY

INTRODUCTION

The BHA 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 BHA 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 BHA.
  - 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 BHA's collection and use of family information as provided for in BHA-provided consent forms.
- The BHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or BHA.

This chapter contains three (3) parts:

1. Part I: Definitions of Family and Household Members. This part contains HUD and BHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.
2. Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.
3. 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 BHA to deny assistance.

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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 (1) 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. BHA has the discretion to determine if any other group of persons qualifies as a family.

<u>BHA Policy</u>

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 BHA'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 BHA 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

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separation decree, BHA is bound by the court's determination of which family members continue to receive assistance.

BHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one (1) 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 (2) 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, BHA 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 cohead or spouse.

BHA Policy

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.

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

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

Spouse means the marriage partner of the head of household.

BHA Policy

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

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

BHA Policy

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

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

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

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

Joint Custody of Dependents

BHA Policy

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, BHA 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.

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3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, P. 5-29]

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

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent 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 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because 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 cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

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

Disabled Family

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

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Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent BHA 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.

BHA Policy

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].

BHA Policy

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

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

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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

BHA Policy

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

Absent Students

BHA Policy

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

BHA Policy

If a child has been placed in foster care, BHA 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

BHA Policy

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

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

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

BHA Policy

The BHA 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

BHA Policy

The family must request BHA approval for the return of any adult family members that BHA 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 BHA 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.

BHA Policy

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,

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social worker, or caseworker, 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 BHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to BHA or to another BHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within ten (10) business days of receiving a request for a live-in aide, including all required documentation related to the request, BHA 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.

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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]

  BHA Policy

  The BHA 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 BHA.

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

BHA Policy

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

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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 restriction.

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 BHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

<u>BHA Policy</u>

Family members who declare citizenship or national status will not be required to provide additional documentation unless BHA 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 BHA efforts to verify their immigration status as described in Chapter 7. The documentation required for

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establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. BHA 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 BHA 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 BHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to BHA in accordance with program requirements [24 CFR 5.512(a)].

<u>BHA Policy</u>

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

When a BHA 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 ten (10) business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with BHA. The informal hearing with BHA 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, BHA 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, BHA 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.

BHA Policy

BHA will verify the status of the head of household at the time of application. BHA will verify the status of other household members at the time other eligibility factor are determined.

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

For every family member age six (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.

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If a new member who is at least six (6) 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 (6) 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 BHA 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 cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The BHA 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 BHA 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, BHA will rely on the following definitions [FR 4/10/06, p. 18148].

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Dependent Child

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

Independent Student

BHA Policy

The BHA 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.

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

Institution of Higher Education

The BHA 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

BHA Policy

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

Veteran

BHA Policy

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

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, BHA 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, BHA 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.

BHA Policy

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

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

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- 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 BHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, BHA 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

BHA Policy

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

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

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

- If the student's parents are divorced or separated, BHA 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, BHA 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. BHA 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, BHA will use the income limits for the jurisdiction in which the parents live.

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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 BHA 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
- 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 to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside BHA'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

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

HUD requires BHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, BHA to admit an otherwise-eligible family if the household member has completed a BHA-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).

  BHA Policy

  The BHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if BHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by BHA, or the person who committed the crime, is no longer living in the household.

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

  BHA Policy

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

- The BHA 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.

  BHA Policy

  In determining reasonable cause, BHA 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. BHA 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.

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

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

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, BHA to deny assistance if BHA 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.

BHA Policy

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

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

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

Criminal activity 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 BHA (including a BHA employee or a BHA 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 sex-related, drug-related or violent criminal activity within the past three (3) years.
- Any arrests for sex-related, drug-related or violent criminal activity within the past three (3) years.
- Any arrests for sex-related criminal activity for which any household member is subject to police registration.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past three (3) years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

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

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

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

BHA Policy

The BHA **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 or the Welfare to Work voucher program.

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

- The family does not provide information that BHA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to BHA.
- Any family member has been evicted from federally assisted housing in the last three years.
- Any PHA 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 PHA 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 PHA for amounts BHA 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 BHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

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- A family member has engaged in or threatened violent or abusive behavior toward BHA personnel.

- *Abusive or violent behavior towards BHA 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, BHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, BHA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

BHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists BHA in complying with HUD requirements and BHA 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 BHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

BHA Policy

The BHA will perform a criminal background check through local law enforcement for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, BHA will request a fingerprint card and will request information from the National Crime Information center (NCIC).

BHA is 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 BHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, BHA 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)].

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Screening for Suitability as a Tenant [24 CFR 982.307]

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

BHA Policy

The BHA 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. BHA 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 BHA to provide prospective owners with the family's current and prior address (as shown in BHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits BHA 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.

BHA Policy

The BHA 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 BHA 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)]

BHA Policy

The BHA 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.

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

HUD authorizes BHA 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).

BHA Policy

The BHA 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 BHA 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 BHA to impose as a condition of admission, a requirement 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.

BHA Policy

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.

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

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

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

BHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, BHA will determine whether the behavior is related to the disability. If so, upon the family's request, BHA will determine whether alternative measures are appropriate as a reasonable accommodation. BHA 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, BHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If BHA 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.

BHA Policy

The family will be notified of a decision to deny assistance in writing within ten (10) business days of the determination.

If a BHA 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 BHA 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)].BHA 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)].

BHA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible BHA will notify the family in writing of the proposed

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denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given ten (10) business days to dispute the accuracy and relevance of the information. If the family does not contact BHA to dispute the information within that ten (10) day period, BHA 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;

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- 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

BHA Policy

The BHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under BHA's policies. Therefore, if BHA makes a determination to deny admission to an applicant family, BHA 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 a signed statement certifying 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, or

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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, BHA will grant an extension of ten (10) business 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 BHA determines the family is eligible for assistance, no informal review will be scheduled and BHA will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

BHA Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, BHA 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.

BHA Confidentiality Requirements

All information provided to BHA 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

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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 of 2000 [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 of an individual that:

(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) is manifested before the individual attains age 22;

(iii) is likely to continue indefinitely;

(iv) 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

(v) reflects the individual'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.

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(B) Infants and Young Children

An individual from birth to age nine (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 an impairment; or is regarded as having such an 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.

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(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.

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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.

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(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

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(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—

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(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 no lo 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

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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—

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(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.

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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 BHA with the information needed to determine the family's eligibility. HUD requires BHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, BHA must select families from the waiting list in accordance with HUD requirements and BHA policies as stated in the administrative plan and the annual plan.

The BHA 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 BHA 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 BHA 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 BHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and BHA 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 BHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how BHA'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 BHA will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide BHA in selecting families for HCV assistance as such assistance becomes

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available. It also specifies how in-person interviews will be used to ensure that BHA 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 BHA'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 BHA'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 BHA to determine the format and content of HCV applications, as well as how such applications will be made available to interested families and how applications will be accepted by BHA.

BHA Policy

Depending upon the length of time that applicants may need to wait to receive assistance, BHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

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

Families may obtain application forms from BHA's office during normal business hours. Families may also request – by telephone or by mail – that a form be sent to the family via first class mail.

Completed applications must be returned to BHA by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by BHA for processing. If an application is incomplete, BHA will notify the family of the additional information required.

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4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The BHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard BHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP).BHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or BHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of BHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

BHA 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 BHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

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

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

Ineligible for Placement on the Waiting List

<u>BHA Policy</u>

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

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Eligible for Placement on the Waiting List

BHA Policy

The BHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete 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 complete application is received by BHA.

Part II: Managing the Waiting List

4-II.A. OVERVIEW

The BHA 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 BHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

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

The BHA's HCV waiting list must be organized in such a manner to allow BHA 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;

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- Racial or ethnic designation of the head of household.

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

BHA Policy

The BHA will maintain a separate waiting list for the BHA and KCCHA HCV program. It will also maintain a separate waiting list for each of the project-based site-based waiting lists.

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 BHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that BHA maintain a single merged waiting list for our 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.

BHA Policy

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

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

Closing the Waiting List

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

BHA Policy

The BHA 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 BHA has particular preferences or funding criteria that require a specific category of family, BHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

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If the waiting list has been closed, it cannot be reopened until BHA 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.

BHA Policy

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

Local newspapers of general circulation and the Housing Authority of the City of Bremerton website.

4-II.D. FAMILY OUTREACH [HCV GB, PP. 4-2 TO 4-4]

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

Because HUD requires BHA to serve a specified percentage of extremely low income families (see Chapter 4, Part III),BHA 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].

BHA 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.

BHA 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;

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- 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.

BHA Policy

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

BHA Policy

While the family is on the waiting list, the family must immediately inform BHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

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

Purging the Waiting List

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

BHA Policy

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

To update the waiting list, BHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that BHA 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.

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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 BHA not later than 15 business days from the date of BHA letter.

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

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

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

If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if s/he determines the lack of response was due to BHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

BHA Policy

If at any time an applicant family is on the waiting list, BHA 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 BHA 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 BHA'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 BHA 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.

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The BHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to BHA'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, BHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. BHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a BHA funding for a specified category of families on the waiting list. BHA 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.

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

BHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that BHA will use [24 CFR 982.202(d)].

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

BHA is 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 BHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with BHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

<u>BHA Policy</u>

1. Households living in areas of Westpark Public Housing that are designated for relocation as part of the phased redevelopment.

2. Households moving from Poplars Apartments who are eligible for tenant-based assistance based on project-based voucher guidelines.

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3. Graduates from the Supportive Housing Program (SHP).

4. Date and Time

The BHA Poplars Apartments Project-based voucher waiting list includes the following preferences in the following order:

1. BHA public housing residents aged 62 and older who will be relocated as a result of the Westpark redevelopment.

2. Date and time of application of eligible very low-income seniors aged 62 and older.

The KCCHA tenant-based waiting list includes the following preferences in the following order:

1. Graduates from the Kitsap Mental Health Services Supported Living Program.

2. Graduates from the Kitsap Community Resources Transitional Housing Program.

3. Graduates from the YWCA Supportive Housing Rental Assistance Program.

4. Graduates from the Island Home Transitional Housing program.

5. Date and time of application.

KCCHA maintains separate project-based voucher waiting lists on-site for each of the following developments:

- Kitsap Mental Health Services Supported Living Program;
- Island Home Transitional Housing Program;
- Liberty Bay Housing Program;
- Golden Tides II;
- Golden Tides III;
- Madrona Manor;
- Port Orchard Vista; and
- 550 Madison.

BHA does not monitor selection procedures for these waiting lists and they are therefore not outlined in this plan.

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

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HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during BHA'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, a BHA 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)].

BHA Policy

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

BHA Policy

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 BHA's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by BHA. Documentation will be maintained by BHA 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 BHA 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, BHA must notify the family.

BHA Policy

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The BHA 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 BHA with no forwarding address, the family will be removed from the waiting list without further notice. The returned mail will be retained in the closed file.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that BHA 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.

BHA Policy

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

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

The interview will be conducted only if the head of household or spouse/cohead 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

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documentation. If any materials are missing, BHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, BHA will provide translation services in accordance with BHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact BHA in advance of the interview to schedule a new appointment. All families are subject to the Appointment Policy outlined in Chapter 12.

4-III.F. COMPLETING THE APPLICATION PROCESS

The BHA must verify all information provided by the family (see Chapter 7). Based on verified information, BHA 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.

BHA Policy

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

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

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

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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, BHA 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, BHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on BHA'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 BHA 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 BHA'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 BHA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains BHA'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.

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

The BHA 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, BHA 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.

BHA Policy

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, BHA 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 BHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, BHA will provide translation services in accordance with BHA's LEP plan (See Chapter 2).

Notification and Attendance

BHA Policy

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

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any alternate address provided on the initial application.

Applicants who fail to attend a scheduled briefing will be subject to BHA Appointment Policy outlined in Chapter 12.

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;

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- Where the family can lease a unit, including renting a unit inside or outside BHA's jurisdiction;

- For families eligible under portability, an explanation of portability. BHA 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.

  BHA Policy

  When BHA-owned units are available for lease, BHA 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 BHA-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 BHA's policies on any extensions or suspensions of the term. If BHA 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 BHA determines the payment standard for a family, how BHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.

- An explanation of how BHA 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 BHA 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 BHA policy on providing information about families to prospective owners.

- The BHA subsidy standards including when and how exceptions are made.

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- 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 BHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which BHA may terminate assistance for a participant family because of family action or failure to act.
- BHA informal hearing procedures including when BHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

If BHA 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 PHA's including names, addresses, and telephone numbers.

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, BHA may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

BHA Policy

The BHA will provide the following additional materials in the briefing packet:

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- When BHA-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 BHA-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. BHA 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

BHA Policy

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

When a family is required to provide notice to BHA, 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 BHA 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 BHA 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.

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- 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.

  BHA Policy

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

- The family must allow BHA 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.

  BHA Policy

  The BHA 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 BHA and the owner before moving out of the unit or terminating the lease.

  BHA Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to BHA at the same time the owner is notified.

- The family must promptly give BHA 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 BHA. The family must promptly notify BHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request BHA approval to add any other family member as an occupant of the unit.

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BHA Policy

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

- The family must promptly notify BHA in writing if any family member no longer lives in the unit.

- If BHA has given approval, a foster child or a live-in aide may reside in the unit. BHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when BHA 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.

BHA Policy

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

- The family must supply any information requested by BHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify BHA when the family is absent from the unit.

BHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to BHA 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

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premises. See Chapter 12 for HUD and BHA 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 BHA 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 BHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Part II: Subsidy Standards and Voucher Issuance

5-II.A. OVERVIEW

The BHA 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. BHA 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, BHA determines the appropriate number of bedrooms under BHA 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 BHA 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.

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- 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 BHA 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. No additional bedrooms will be provided for the attendant's family.

- 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 BHA subsidy standards.

BHA Policy

The BHA 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 domestic partners) will be allocated separate bedrooms.

- Persons of different generations will be allocated separate bedrooms.

- Live-in aides will be allocated a separate bedroom.

- Single person families will be allocated one bedroom.

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

Voucher Size	**Persons in Household** **(Minimum – Maximum)**
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6
4 Bedrooms	4-8
5 Bedrooms	6-10

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, BHA may grant an exception to its established subsidy standards if BHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal

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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)].

BHA Policy

The BHA 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 BHA will notify the family of its determination within 30 business 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, BHA 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 BHA has determined the family to be eligible for the program, and that BHA expects to have money available to subsidize the family if the family finds an approvable unit. However, BHA 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 BHA's housing choice voucher program [Voucher, form HUD-52646]

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A voucher can be issued to an applicant family only after BHA 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].

BHA Policy

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The BHA 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, BHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

BHA Policy

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

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

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

Voucher Term [24 CFR 982.303]

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

BHA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless BHA grants an extension.

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

The BHA 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 BHA can approve. Discretionary policies related to extension and expiration of search time must be described in BHA's administrative plan [24 CFR 982.54].

BHA 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.

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The family must be notified in writing of BHA's decision to approve or deny an extension. BHA'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)].

BHA Policy

The BHA will automatically approve one 30-day extension upon written request from the family.

The BHA will approve additional extensions 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 BHA. Following is a list of extenuating circumstances that BHA 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 BHA
    - 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. BHA 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 BHA prior to the expiration date of the voucher (or extended term of the voucher).

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

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

At its discretion, a BHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher

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term. “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time BHA approves or denies the request [24 CFR 982.4].BHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

BHA Policy

When a Request for Tenancy Approval and proposed lease is received by BHA, the term of the voucher will be suspended for the period of time between the date the request is received and the date the unit is inspected.

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, BHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

BHA Policy

If an applicant family’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), BHA will require the family to reapply for assistance. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by BHA (after the voucher term has expired), the family will be required to reapply for assistance.

Within ten (10) business days after the expiration of the voucher term or any extension, BHA will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

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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 BHA's subsidy. BHA 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 BHA 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 BHA policies for calculating annual income are found in Part I.

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

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

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(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

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	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].

BHA Policy

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

Absent Students

BHA Policy

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

BHA Policy

If a child has been placed in foster care, BHA 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.

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Absent Head, Spouse, or Cohead

BHA Policy

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

Family Members Permanently Confined for Medical Reasons

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].

BHA Policy

The BHA 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

BHA Policy

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, BHA 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

BHA Policy

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

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

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases, BHA 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 BHA 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 BHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes BHA 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 BHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

<u>BHA Policy</u>

When BHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud),BHA will calculate projected annual income by annualizing *current* income (and subsequently conducting an interim reexamination if income changes).

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For example:

A teacher's assistant currently works nine months annually and receives $1300 per month. During the summer, the teacher's assistant works for the Parks and Recreation Department and makes $600 per month. BHA will calculate annual income by annualizing the current income ($1300 x 12 months). The participant will be responsible for reporting their change in income and an interim reexamination would then be conducted at the end of the school year to recalculate the family's income during the summer months at reduced annualized amount of $7200 ($600 x 12 months).

The tenant family is required to report all changes in income to initiate recalculation of their annual income.

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

HUD strongly recommends the use of up-front income verification (UIV). UIV 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 BHA to use UIV information in conjunction with family-provided documents to anticipate income [UIV].

BHA Policy

BHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of BHA's interview date. In the case where tenant supplied information is in the form of a pay stub, there must be at least two consecutive pay stubs dated within the last sixty days.

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

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

- If the UIV figure is less than the family's figure, BHA will use the family's information.
- If the UIV figure is more than the family's figure, BHA will use the UIV data unless the family provides documentation of a change in

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circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, BHA will use the family-provided information.

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

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

BHA Policy

All wages will be calculated by converting periodic wages to annual income using the following method:

- Multiply hourly overtime wage by the number of hours worked per pay period.
- Multiply weekly wages by 52.
- Multiply bi-weekly wages (paid every other week) by 26.
- Multiply semi-monthly wages (paid twice each month) by 24.

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- Multiply monthly wages by 12.

If it is not possible to anticipate annual income through wage conversion using UIV/EIV or third-party verification and the family has had the same employment for at least 1 year, BHA will use the last W-2 to project income. If the family has had the employment for less than 1 year BHA will use on average of the last three months pay stubs.

For persons who regularly receive bonuses or commissions, BHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, BHA will use the prior year amounts. In either case, the family may provide, and BHA 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, BHA will count only the amount estimated by the employer.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

This type of income (including gifts) is not included in annual income.

BHA Policy

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

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

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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 BHA 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 BHA'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)].

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BHA Policy

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

End of participation in a training program must be reported in accordance with BHA'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.

BHA Policy

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

Earned Income Tax Credit

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

Earned Income Disallowance

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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."

<u>BHA Policy</u>

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The BHA 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 prequalifying, 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.

BHA Policy

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

Second 12-Month Exclusion 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.

BHA Policy

During the 48-month eligibility period, BHA 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

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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].

BHA Policy

To determine business expenses that may be deducted from gross income, BHA 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 BHA to deduct from gross income expenses for business expansion.

BHA Policy

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

Capital Indebtedness

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

BHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means BHA 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

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HUD regulations require BHA 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.

BHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, BHA 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

BHA Policy

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

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

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that BHA 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, BHA 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 BHA policies related to each type of asset.

General Policies

Income from Assets

The BHA 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 BHA to use other than current circumstances to anticipate income when (1) an imminent change in

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circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3)BHA 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, BHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

BHA Policy

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 BHA to show why the asset income determination does not represent the family's anticipated asset income.

The BHA will verify and anticipate income for all accounts held in the name of the family and their payee.

In circumstances where an account is held in the names of a payee, the family, and other individuals residing outside the household who receive services from the payee, no asset income will be assessed to the resident family.

Valuing Assets

The calculation of asset income sometimes requires BHA 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.

BHA Policy

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

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, BHA 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

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$5,000, BHA 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 BHA 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."

> BHA Policy
>
> If an asset is owned by more than one person and any family member has unrestricted access to the asset, BHA 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, BHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, BHA 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 BHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

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

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The BHA 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.

BHA Policy

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

Foreclosure or Bankruptcy

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

Family Declaration

BHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. BHA may verify the value of the assets disposed of if other information available to BHA 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.

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In determining the value of a checking account, BHA will use the average monthly balance for the last six months. If a six month average balance is not available, BHA will use the average monthly balance provided. If no average is provided, the current balance will be used.

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

In determining the anticipated income from an interest bearing checking or savings account, BHA 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.

BHA Policy

In determining the market value of an investment account, BHA 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),BHA 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)]

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- 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.

BHA Policy

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

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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, BHA 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].

> BHA Policy
>
> In determining the value of personal property held as an investment, BHA will use the family's estimate of the value. However, BHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

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

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

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

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

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

BHA Policy

When a delayed-start payment is received and reported during the period in which BHA is processing an annual reexamination, BHA will adjust the family share and BHA 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 BHA.

Periodic Payments Excluded from Annual Income

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- 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)]

  BHA Policy

  The BHA 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)].

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

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

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, BHA must include in annual income "imputed" welfare income. BHA must request that the welfare agency inform BHA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

Offsets

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

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

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

BHA Policy

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

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

If regular payments are made through a state or local entity, BHA 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.

If the verifying agency cannot provide a projected monthly amount and the household has been receiving payments for over one year BHA will use the average amount paid over the last 12 months.

If the verifying agency cannot provide a projected monthly payment amount and the household has been receiving payments for less than one year BHA will use the average amount paid calculated using the total amount paid divided by the number of months the household has been receiving payments.

When completing an annual reexamination, if the family has not received any payments during the three months prior to the reporting date then child support will not be counted in the annual income calculation and the household will be responsible for reporting any future payments.

Regular Contributions or Gifts

The BHA 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)].

BHA Policy

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

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Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by BHA. For contributions that may vary from month to month (e.g., utility payments),BHA will include an 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, BHA will use the definitions of *dependent child, institution of higher education,* and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

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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

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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)

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(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)

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Part II: Adjusted Income

6-II.A. INTRODUCTION

Overview

HUD regulations require BHA 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 [BHA] 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

BHA Policy

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

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

6-II.B. DEPENDENT DEDUCTION

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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."

BHA Policy

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

BHA Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, BHA 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.

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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.

BHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, BHA 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 BHA 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 BHA to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

BHA Policy

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

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Eligible Attendant Care

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

BHA Policy

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

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

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

BHA Policy

The BHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, BHA will collect information from organizations that provide services and support to persons with

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disabilities. A family may present, and BHA 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

BHA Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, BHA 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

BHA Policy

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

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and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

BHA Policy

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 BHA.

Furthering Education

BHA Policy

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

BHA Policy

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 childcare 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

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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 BHA 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].

BHA Policy

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, BHA 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. BHA 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 childcare [VG, p. 26].

Allowable Child Care Activities

BHA Policy

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

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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.

BHA Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare 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, BHA will use the schedule of childcare costs from the local welfare agency. Families may present, and BHA will consider, justification for costs that exceed typical costs in the area.

Part III: Calculating Family Share and BHA 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 BHA

The BHA 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]

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BHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

BHA Policy

The minimum rent for this locality is $0.

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 BHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy BHA 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.)

BHA Subsidy [24 CFR 982.505(b)]

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

BHA Policy

The BHA will make utility reimbursements to the family.

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

BHA Policy

The financial hardship rules described below do not apply in this jurisdiction because BHA has established a minimum rent of $0.

Overview

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If BHA establishes a minimum rent greater than zero, BHA 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 BHA 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.

BHA Policy

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

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

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

BHA Policy

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

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

(4) A death has occurred in the family.

BHA Policy

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

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

BHA Policy

The BHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

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

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

BHA Policy

The BHA 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 BHA 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		$15	
N/A	10% of monthly gross income	N/A	10% of monthly gross income
$35	Welfare rent	$35	Welfare rent
	Minimum rent		Minimum rent
Minimum rent applies. TTP = $35		Hardship exemption granted. TTP = $15	

BHA Policy

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

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

No Financial Hardship

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

BHA Policy

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

Temporary Hardship

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

BHA Policy

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

Long-Term Hardship

If BHA determines that the financial hardship is long-term, BHA 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.

BHA Policy

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

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

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved

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because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

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

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

Overview

The BHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of BHA's payment standards. The establishment and revision of BHA'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 BHA'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 BHA 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, BHA must use the appropriate payment standard for the exception area.

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

If during the term of the HAP contract for a family's unit, the owner lowers the rent, BHA 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 BHA 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

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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. BHA will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, BHA 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: BHA 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 BHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. BHA 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 BHA 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

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If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, BHA 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 BHA-established utility allowance schedule is used in determining family share and BHA subsidy. BHA 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 BHA subsidy standards. See Chapter 5 for information on BHA's subsidy standards.
For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a BHA to approve a utility allowance amount higher than shown on BHA'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, BHA will approve an allowance for air-conditioning, even if BHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide BHA 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, BHA must use BHA current utility allowance schedule [24 CFR 982.517(d)(2)].

> <u>BHA Policy</u>
>
> 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. BHA must prorate the assistance provided to a mixed family. BHA 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

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example, if BHA subsidy for a family is calculated at $500 and two of four family members are ineligible, BHA subsidy would be reduced to $250.

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EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

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

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

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

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

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

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

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

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(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.

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[1] Text of 45 CFR 260.31 follows.

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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) Nonrecurrent, short-term benefits that:

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

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

(iii) Will not extend beyond four months.

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

(3) Supportive services such as 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

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(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.

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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, childcare, 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 BHA 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 BHA's governing board. No resident may receive more than one such stipend during the same period of time;

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(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 BHA 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);

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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 $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);

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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).

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

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

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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

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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).

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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 BHA by the welfare

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agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of BHA, the welfare agency will inform BHA 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 BHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. BHA 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 BHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to BHA 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)BHA 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 BHA decision.*

(1) Public housing. If a public housing tenant claims that BHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if BHA denies the family's request to modify such amount, BHA shall give the tenant written notice of such denial, with a brief explanation of the basis for BHA determination of the amount of imputed welfare income. BHA notice shall also state that if the tenant does not agree with BHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review BHA 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 BHA 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 BHA 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 BHA denies the family's request to modify such amount, BHA shall give the family written notice of such denial, with a brief explanation of the basis for BHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with BHA determination, the family may request an informal hearing on the determination under BHA hearing procedure.

(e) *BHA relation with welfare agency.*

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(1)BHA must ask welfare agencies to inform BHA 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 BHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2)BHA 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 BHA. However, BHA 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. BHA shall be entitled to rely on the welfare agency notice to BHA of the welfare agency's determination of a specified welfare benefits reduction.

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CHAPTER 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

INTRODUCTION

The BHA 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. BHA must not pass on the cost of verification to the family.

The BHA 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 BHA 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 BHA.

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 BHA or HUD determines is necessary to the administration of the program and must consent to BHA 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 BHA may collect information from State Wage Information Collection Agencies (SWICAs)

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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, BHA 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 BHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes BHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires BHA to use the most reliable form of verification that is available and to document the reasons when BHA uses a lesser form of verification.

BHA Policy

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

- Up-front Income Verification (UIV) 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

BHA Policy
Any documents used for verification must be dated within 60 calendar days of the date they are provided to BHA. The documents must not be damaged, altered or in any way illegible.

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The BHA 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, BHA would accept the most recent report.

Print-outs from web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to BHA and must be signed in the presence of a BHA representative or BHA notary public.

File Documentation

The BHA 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 BHA 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. UP-FRONT INCOME VERIFICATION (UIV)

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

BHA Policy

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

- HUD's EIV system (when it is available to BHA)
- DSHS online Benefit System
- The Work Number

The BHA must restrict access to and safeguard UIV 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 UIV-generated information. No adverse action can be taken against a family until BHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of BHA.

Definition of Substantial Difference

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UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using $200 per month as the threshold for a substantial difference. BHA will therefore use $200 per month as the threshold for a substantial difference.
See Chapter 6 for BHA's policy on the use of UIV to project annual income and for BHA's threshold for substantial difference.

When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV 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 UIV source and the family, BHA 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 BHA to use the EIV system when available. The following policies will apply when BHA 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.

<u>BHA Policy</u>

The BHA 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.

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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, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports not will be retained in participant files with the applicable annual or interim reexamination documents. The staff member viewing the information will note the information viewed on an EIV Record form and that EIV Record form will be retained in the participant file.

When BHA 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.

BHA Policy

The BHA 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, BHA will begin with the largest discrepancies.

When BHA 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, BHA will request third-party written verification of the income in question.

When BHA 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

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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.

BHA Policy

The BHA will identify participants whose identity verification has failed as part of the annual reexamination process.
The BHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When BHA determines that discrepancies exist due to BHA 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 BHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

BHA Policy

The BHA 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 BHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. BHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, BHA will request third-party oral verification.

The BHA 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, BHA 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.

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When any source responds verbally to the initial written request for verification BHA 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, BHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, BHA 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, BHA will use the information from documents on a provisional basis. If BHA 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, BHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of BHA'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 BHA 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 BHA 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].

BHA Policy

The BHA 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 $500 annually ***and*** the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The BHA 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, BHA will rely upon review of documents when

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BHA determines that a third party's privacy rules prohibit the source from disclosing information.

BHA Policy

The BHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

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

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

BHA Policy

If BHA has determined that third-party verification is not available or not required, BHA will use documents provided by the family as verification.
The BHA may also review documents when necessary to help clarify information provided by third parties. In such cases, BHA will document in the file how BHA arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

BHA Policy

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

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

The self-certification must be made in a format acceptable to BHA 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 BHA representative or BHA notary public.

PART II: VERIFYING FAMILY INFORMATION

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7-II.A. VERIFICATION OF LEGAL IDENTITY

BHA Policy

The BHA 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 BHA'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 BHA and be signed in the presence of a BHA representative or BHA notary public.

Legal identity will be verified on an as needed basis.

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.

BHA Policy

The BHA 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

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- 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, BHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. BHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

BHA Policy

The BHA 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, BHA will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously assisted occupancy. The name shown on the social security number verification will be the name used on all BHA documents.

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 aids, 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.

BHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, BHA 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.

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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.

BHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

BHA Policy

Certification by the head of household is normally sufficient verification. If BHA has reasonable doubts about a marital relationship, BHA will require the family to document the marriage. Such documentation could include:

- 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

BHA Policy

Certification by the head of household is normally sufficient verification. If BHA has reasonable doubts about a separation or divorce, BHA will require the family to document the divorce, or separation. Such documentation could include:

- 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

BHA Policy

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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

BHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

BHA Policy

The BHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead.
- The family reports childcare expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

BHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, BHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.

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- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.

If BHA cannot verify at least one of these exemption criteria, BHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, BHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

BHA Policy

The BHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

7-II.F. DOCUMENTATION OF DISABILITY

The BHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. BHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)].BHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If BHA receives a verification document that provides such information, BHA will not place this information in the tenant file. Under no circumstances will BHA 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.

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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) after being determined to be a disabled individual 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].

BHA Policy

For family members claiming disability who receive disability benefits from the SSA, BHA 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, BHA 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), BHA 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 BHA.

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.

BHA Policy

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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 BHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The BHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

BHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless BHA 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-

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funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

BHA 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, BHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).
The BHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The BHA must verify any preferences claimed by an applicant.

BHA Policy

The BHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. BHA will verify this preference using BHA's termination records.

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 BHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

BHA Policy

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

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

BHA Policy

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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 BHA 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, BHA 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, BHA 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, BHA 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

BHA Policy

To verify the SS/SSI benefits of applicants, BHA 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),BHA 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 BHA.

To verify the SS/SSI benefits of participants, BHA 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, BHA will request a current SSA benefit verification letter from each

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family member that receives social security benefits. If the family is unable to provide the document(s)BHA 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 BHA.

7-III.D. ALIMONY OR CHILD SUPPORT

BHA Policy

The way BHA 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, BHA 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.

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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. BHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

BHA Policy

The BHA will verify the value of assets disposed of only if:

- The BHA 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 BHA verified this amount. Now the person reports that she has given this $10,000 to her son. BHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, BHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

BHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant

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- 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, BHA 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

BHA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, BHA 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, BHA 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, BHA 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 BHA must obtain verification for income exclusions only if, without verification, BHA 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, BHA will confirm that BHA 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.

BHA Policy

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The BHA 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, BHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

BHA Policy

The BHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

Families reporting zero income will be required to complete a BHA-approved Statement of Survival questionnaire and zero income certification on a quarterly basis.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, BHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

BHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9),BHA will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, BHA will request written verification from the institution of higher education regarding the student's tuition amount.

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If BHA is unable to obtain third-party written verification of the requested information, BHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with BHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

BHA Policy

If BHA is required to determine the income eligibility of a student's parents, BHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E).BHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to BHA. The required information must be submitted (postmarked) within 10 business days of the date of BHA's request or within any extended timeframe approved by BHA.

The BHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

Part IV: Verifying Mandatory Deductions

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that BHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

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See Chapter 6 (6-II.B.) for a full discussion of this deduction. *BHA* must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction .*BHA* must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

BHA Policy

The BHA 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, BHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. BHA 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, BHA 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.

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- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. BHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for BHA'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.

BHA Policy

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

BHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, BHA 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.

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Amount of Expense

Attendant Care

BHA Policy

The BHA 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

BHA Policy

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, BHA 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

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disabilities. *BHA* will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The BHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

BHA Policy

The BHA 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.

BHA Policy

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, BHA 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.

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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. BHA 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.

BHA Policy

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 BHA 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.

BHA Policy

Information to be Gathered

The BHA 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 BHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, BHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to BHA any reports provided to the other agency.

In the event third-party verification is not available, BHA will provide the family with a form on which the family member must record job search efforts. BHA will

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review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The BHA 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 BHA 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.

BHA Policy

The BHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The BHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The BHA 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.

BHA Policy

The actual costs the family incurs will be compared with BHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

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If the family presents a justification for costs that exceed typical costs in the area, BHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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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.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an 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 of pay 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.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings 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.			
	Use of HUD systems, when 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, bonuses, overtime, company 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.

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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 source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices 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 request 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, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain 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 printout 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.

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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 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.
Pensions	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.

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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 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 asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes 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 RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant 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 possible 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.)

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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 BHA. • 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.*	

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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 BHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and BHA-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 BHA 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 BHA 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 BHA 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 BHA 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

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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 7420.8
- 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 BHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, BHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic

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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.

BHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to BHA for review.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

The BHA 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 BHA 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 BHA 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.

BHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

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Clarifications of HUD Requirements

BHA Policy

As permitted by HUD, BHA 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.

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.

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.

Security

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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 BHA 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 BHA notification.

BHA Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent threat to health and safety
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Absence of a functioning smoke detector in the unit

If an owner fails to correct life threatening conditions as required by BHA, 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 BHA, BHA may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless BHA 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.

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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 BHA 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, BHA 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 BHA, 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 BHA will take action in accordance with Section 8-II.G.

BHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

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8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If BHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, BHA 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 BHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections* .BHA 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 BHA 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 sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of BHA-owned Units [24 CFR 982.352(b)]

The BHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a BHA-owned unit. A BHA-owned unit is defined as a unit that is owned by BHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by BHA). The independent agency must communicate the results of each inspection to the family and BHA. The independent agency must be approved by HUD, and may be the unit of general local government for BHA jurisdiction (unless BHA is itself the unit of general local government or an agency of such government).

Inspection Costs

The BHA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of BHA-owned units ,BHA may compensate the independent agency from ongoing administrative fee for inspections performed. BHA and the

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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 BHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

BHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, BHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits BHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

BHA Policy

When a family occupies the unit at the time of inspection, an adult family member must be present for the inspection.

At initial inspection of a vacant unit, BHA will inspect the unit in the presence of the owner or owner's representative. If the owner or owner's representative cannot be present, BHA will inspect the unit on their own with the owner's permission.

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 PHA's 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 PHA's 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)].

BHA Policy

The BHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 3-5 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

BHA Policy

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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 BHA for good cause. BHA will reinspect the unit within 5 business days of the date the owner notifies BHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any BHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, BHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. BHA 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.

BHA Policy

If utility service is not available for testing at the time of the initial inspection, BHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. BHA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by BHA.

Appliances

BHA Policy

If the family is responsible for supplying the stove and/or refrigerator, BHA 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 BHA. BHA 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.

BHA Policy

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If an adult family member cannot be present on the scheduled date, the family should request that BHA reschedule the inspection. BHA and family will agree on a new inspection date that generally should take place within 10 business days of the originally-scheduled date. BHA may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the family will be subject to the Appointment Policy outlined in Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, P. 10-30]

The BHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

BHA Policy

During a special inspection, BHA 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 BHA 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 BHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8.II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, BHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

BHA Policy

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When life-threatening conditions are identified, BHA 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 BHA's notice.

When failures that are not life threatening are identified, BHA will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The 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 BHA-approved extension), the owner's HAP will be abated in accordance with BHA 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 BHA-approved extension, if applicable) the family's assistance will be terminated in accordance with BHA policy (see Chapter 12).

Extensions

For conditions that are life threatening, BHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, BHA may grant an exception to the required time frames for correcting the violation, if BHA determines that an extension is appropriate [24 CFR 982.404].

BHA Policy

Except in the cases of lead-based paint fail items, extensions will be granted in cases where BHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

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Reinspections

BHA Policy

The BHA will conduct a reinspection immediately following the end of the corrective period, or any BHA 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, BHA 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 BHA policies. If BHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, BHA 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, BHA 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 BHA, HUD requires BHA 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.

BHA Policy

The BHA will make all HAP abatements effective the first of the month following the expiration of BHA specified correction period (including any extension).

The BHA 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 BHA must decide how long any abatement period will continue before the HAP contract will be terminated. BHA 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

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must give the owner reasonable notice of the termination. BHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

BHA Policy

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies BHA before the termination date of the HAP contract, BHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by BHA is 30 days.

8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(B)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by BHA (and any extensions),BHA 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 BHA 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.

BHA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a BHA-owned unit, BHA 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 BHA-owned unit is defined as a unit that is owned by BHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by BHA). The independent agency must communicate the results of the rent reasonableness determination to the family and BHA. The independent agency must be approved by HUD, and may be the

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unit of general local government for BHA jurisdiction (unless BHA 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 BHA 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. BHA (or independent agency in the case of BHA-owned units) will assist the family with the negotiations upon request. At initial occupancy, BHA 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.

BHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, BHA 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, BHA will consider unit size and length of tenancy in the other units.

The BHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after BHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

BHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires BHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct BHA to make a determination at any other time. BHA may decide that a new determination of rent reasonableness is needed at any time.

BHA Policy

In addition to the instances described above, BHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1)BHA determines that the initial rent reasonableness determination was in error or

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(2)BHA 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 BHA to take into consideration the factors listed below when determining rent comparability. BHA 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
- The type of unit including construction type (e.g., single family, duplex, row house, 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.

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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 BHA 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 BHA information regarding rents charged for other units on the premises.

8-III.D . BHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

PHA Policy

The PHA will collect and maintain data on unit information and market rents in the PHA's jurisdiction. Information sources may include newspapers, realtors, appraisers, market surveys, landlords, and other available sources. Unit data will include the location, quality, size, type and age of the unit, as well as amenities, housing services, maintenance and utilities to be provided by the owner. Data will be updated on an ongoing basis and rent information that is more than 12 months old will not be used to determine rent reasonableness.

How Rents are Determined

PHA Policy

The PHA uses a unit-to-unit comparison, by which the rent for a unit proposed for HCV assistance is directly compared to the rents for one or more unassisted units selected as comparables within the same market area. Geocoded maps will be used to identify the unsubsidized units in closest proximity to the subject unit, and unit data information will be used to select the most similar units.

In comparing rents, the PHA will take into account critical market factors that impact rent, including the location, quality, size, unit type, and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Where comparable units differ from the unit proposed for HCV assistance, the PHA will determine whether those differences impact rent. Where they do, the PHA will adjust the rental value of the comparable units, up or down, based on the market value of these factors. The rent for the unit proposed for HCV assistance will be compared to the *adjusted* rents for the comparable units, enabling a fair, accurate, market-based determination of rent reasonableness.

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.

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The PHA will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. If the owner disagrees with this analysis, the owner may submit additional information in support of their requested rent. The PHA will consider this information when making rent determinations. The owner must submit any additional information within 5 business days of the PHA's notification.

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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 located in the unit. The sanitary facilities must be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.
- The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.
- The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
- The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
- The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

Food preparation and refuse disposal

- The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).
- The dwelling unit must have an oven, and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the family. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
- The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.
- The dwelling unit must have space for the storage, preparation, and serving of food.

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- There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

Space and security

- The dwelling unit must provide adequate space and security for the family.
- At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
- The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
- The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

Thermal environment

- The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.
- There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
- The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

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. The electrical fixtures and wiring must ensure safety from fire.
- There must be at least one window in the living room and in each sleeping room.
- The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

Structure and materials

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- The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.
- Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
- The roof must be structurally sound and weather tight.
- The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
- Elevators must be working and safe.

Interior air quality

- The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.
- The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- There must be adequate air circulation in the dwelling unit.
- Bathroom areas must have one openable window or other adequate exhaust ventilation.
- Any room used for sleeping must have at least one window. If the window is designed to be openable, the window must work.

Water supply

- The water supply must be free from contamination.
- The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

Lead-based paint

- 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 part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

Access

- The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

Site and Neighborhood

- The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

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- Acceptability criteria. The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

Sanitary condition

- The dwelling unit and its equipment must be in sanitary condition.
- Acceptability criteria. The dwelling unit and its equipment must be free of vermin and rodent infestation.

Smoke detectors

- Except as provided in paragraph (n)(2) of this section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, - smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).
- For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993 in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

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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.

(6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

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(8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

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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 BHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, BHA 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 BHA 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 BHA, 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 BHA 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 BHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of BHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before BHA approval of the tenancy, BHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR

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982.307(a)(2)].BHA must also inform the owner or manager or their responsibility to comply with VAWA. [Pub.L. 109-162]

The BHA must provide the owner with the family's current and prior address (as shown in BHA records); and the name and address (if known to BHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The BHA is permitted, but not required, to offer the owner other information in BHA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The BHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

BHA Policy

The BHA will not screen applicants for family behavior or suitability for tenancy.

The BHA will not provide additional screening information to the owner.

9-I.B. REQUESTING TENANCY APPROVAL [FORM HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request BHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to BHA:

- 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 BHA 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 BHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

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BHA Policy

Changes to the household will not be considered for the purpose of determining lead based paint risk. (ie: a household cannot request to remove children under the age of 6 from the household to avoid lead based paint requirements). For the purpose of this policy, household composition will be determined as of the date of the annual or initial inspection, whichever is applicable.

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].

9-I.C. OWNER PARTICIPATION

The BHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where BHA 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 BHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The BHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

BHA-Owned Units [24 CFR 982.352(b)]

Otherwise, eligible units that are owned or substantially controlled by BHA issuing the voucher may also be leased in the voucher program. In order for a BHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and BHA 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 BHA-owned unit without any pressure or steering by BHA.

Special Housing Types [24 CFR 982 Subpart M]

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HUD regulations permit, but do not generally require, BHA 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 BHA has chosen to allow.

The regulations do require BHA 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.

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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; BHA 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

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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 BHA. 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.

BHA Policy

The BHA 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 BHA to approve a shorter initial lease term if certain conditions are met.

BHA Policy

The BHA will not approve an initial lease term of less than six (6) months.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

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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 BHA 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. BHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if BHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

BHA Policy

The BHA 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 BHA'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)].

BHA Policy

The BHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not

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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.

BHA Review of Lease

The BHA will review the dwelling lease for compliance with all applicable requirements.

BHA Policy

If the dwelling lease is incomplete or incorrect, BHA 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. BHA will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, BHA will attempt to communicate with the owner and family by phone, fax, or email. BHA will use mail when the parties cannot be reached by phone, fax, or email.

The BHA 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 BHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

BHA Policy

The BHA 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, BHA must promptly notify the family and owner whether the assisted tenancy is approved.

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Prior to approving the assisted tenancy and execution of a HAP contract, BHA 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 BHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where 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 BHA, 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)].

BHA Policy

The BHA will complete its determination within 3 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with BHA, BHA 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.

If BHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified by phone and given the opportunity to address any reasons for disapproval. BHA 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),BHA 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 BHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, BHA agrees to make housing assistance payments to the owner on behalf of a specific

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family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If BHA has given approval for the family of the assisted tenancy, the owner and BHA 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 BHA 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 BHA 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 BHA 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, BHA 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 BHA may not pay any housing assistance payment to the owner.

BHA Policy

Owners who have not previously participated in the HCV program must attend a meeting with BHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. BHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to BHA. BHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and BHA will execute the HAP contract. BHA will not execute the HAP contract until the owner has submitted IRS form W-9. BHA 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.

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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 BHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, BHA 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 BHA 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 BHA 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)].BHA 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)].

<u>BHA Policy</u>

Where the owner is requesting a rent increase, BHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies BHA of the rent change or on the date specified by the owner, whichever is later.

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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 BHA policies governing moves within or outside BHA'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 BHA's HCV program, whether the family moves to another unit within BHA's jurisdiction or to a unit outside BHA'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 BHA's jurisdiction. This part also covers the special responsibilities that BHA 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 condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give BHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

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

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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)].

  BHA Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give BHA 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 BHA a copy of any owner eviction notice [24 CFR 982.551(g)].

- The BHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].

- The BHA 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, BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, BHA 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 BHA 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 BHA may deny a family permission to move and two ways in which a BHA may restrict moves by a family.

Denial of Moves

HUD regulations permit BHA to deny a family permission to move under the following conditions:

Insufficient Funding

The BHA may deny a family permission to move if BHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

BHA Policy

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The BHA will deny a family permission to move on grounds that BHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or BHA; (b)BHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c)BHA 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 BHA's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The BHA 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]

BHA Policy

If BHA has grounds for denying or terminating a family's assistance, BHA 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 BHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit BHA to prohibit more than one elective move by a participant family during any 12-month period.

BHA Policy

The BHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within BHA's jurisdiction or outside it under portability.

The BHA will also deny a family permission to make more than one elective move during any 6-month period. This policy applies to all assisted families residing in BHA's jurisdiction.

The BHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

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In addition, BHA will 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 BHA 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 BHA's jurisdiction under portability, the notice to BHA 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

BHA Policy

Upon receipt of a family's notification that it wishes to move, BHA 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. BHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

BHA Policy

For families approved to move to a new unit within BHA's jurisdiction, BHA 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 BHA's jurisdiction under portability, BHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

BHA Policy

For families approved to move to a new unit within BHA's jurisdiction, BHA will issue a new voucher within 10 business days of BHA's written approval to move. No briefing is required for these families. BHA 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 BHA approves. Otherwise, the family will lose its assistance.

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For families moving into or families approved to move out of BHA's jurisdiction under portability, BHA 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, BHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

Part II: Portability

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA.** The second is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. INITIAL BHA ROLE

Allowable Moves under Portability

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A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside HA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside BHA's jurisdiction under portability. However, HUD gives BHA 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.

> BHA Policy
>
> In determining whether or not to deny an applicant family permission to move under portability because BHA lacks sufficient funding or has grounds for denying assistance to the family, the initial BHA will follow the policies established in section 10-I.B of this chapter.

In addition, BHA 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)].

> BHA Policy
>
> If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in BHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in BHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.
>
> The BHA will 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 BHA [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who

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reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

BHA Policy

The BHA will determine whether a participant family may move out of BHA'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. BHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, BHA 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.

BHA Policy

For a participant family approved to move out of its jurisdiction under portability, BHA 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 BHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

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The regulations and policies on briefings set forth in Chapter 5 of this plan require BHA to provide information on portability to all applicant families that qualify to lease a unit outside BHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

BHA Policy

No formal briefing will be required for a participant family wishing to move outside BHA's jurisdiction under portability. However, BHA 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).BHA will provide the name, address, and phone of the contact for BHA in the jurisdiction to which they wish to move. BHA will advise the family that they will be under the RHA's (Receiving Housing Authority) 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, BHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

BHA Policy

For families approved to move under portability, BHA will issue a new voucher within 10 business days of BHA's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

BHA Policy

The BHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of BHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following

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the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving BHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

BHA Policy

Because the portability process is time-sensitive, BHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. BHA will pass this information along to the family. BHA 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 BHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

BHA Policy

In addition to these documents, BHA will provide the following information, if available, to the receiving BHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all family members age 6 and over
- Documentation of legal identity

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- 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 BHA will notify the family in writing regarding any information provided to the receiving BHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

BHA Policy

If BHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving BHA by phone, fax, or e-mail on the next business day. If BHA reports that the family is not yet under HAP contract, BHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. BHA will send the receiving PHA a written confirmation of its decision by mail.

The BHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

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The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. BHA 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 PHA's as well as for families that remain within its jurisdiction.

BHA Policy

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

BHA Policy

If BHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving PHA's with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from PHA's jurisdiction.

The BHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving BHA's Jurisdiction [Notice PIH 2004-12]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

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Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For BHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into BHA's jurisdiction under portability, the family is responsible for promptly contacting BHA and complying with BHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If BHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

> <u>BHA Policy</u>
>
> Within 10 business days after a portable family requests assistance, the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

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HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

BHA Policy

The BHA will not require the family to attend a briefing. BHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about BHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. BHA will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

BHA Policy

For any family moving into its jurisdiction under portability, BHA will conduct a new reexamination of family income and composition. However, BHA will not delay issuing the family a voucher for this reason. Nor will BHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and BHA 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, BHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

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HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2004-12].

BHA Policy

When a family ports into its jurisdiction, BHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with BHA's procedures. BHA will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

BHA Policy

The receiving PHA's voucher will expire on the same date as the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

BHA Policy

The BHA generally will not extend the term of the voucher that it issues to an incoming portable family unless BHA 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 BHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial BHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR

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982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

BHA Policy

The BHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

BHA Policy

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The BHA will send a copy of the updated HUD-50058 by regular mail at the same time BHA and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between BHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

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In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, BHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

BHA Policy

If BHA elects to deny or terminate assistance for a portable family, BHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. BHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when it executes a HAP contract on behalf of the family or at any time thereafter providing that (a)BHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving BHA [24 CFR 982.201(b)(2)(vii)].

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If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

BHA Policy

If BHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, BHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If BHA decides to absorb a family after that, it will provide the initial BHA 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 BHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

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CHAPTER 11

REEXAMINATIONS

INTRODUCTION

The BHA 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 BHA 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 BHA 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.

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11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The BHA 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].

BHA Policy

The BHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, BHA 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, BHA will perform a new annual reexamination.

The BHA 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 BHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of BHA.

BHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact BHA 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 brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact BHA in advance of the interview to schedule a new appointment in accordance with the Appointment Policy in Chapter 12. If a family does not attend the scheduled interview, the family will be subject to termination.

If a family fails to attend two scheduled interviews without BHA 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.

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An advocate, interpreter, or other assistant may assist the family in the interview process. The family and BHA 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 BHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

BHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a BHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies 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), BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, BHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

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11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(B)(5)]

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

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

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

BHA Policy

During the annual reexamination process, BHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), BHA will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

The BHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

BHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

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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 BHA 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 BHA, 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 BHA 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 BHA.

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 BHA by the date specified, and this delay prevents BHA 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 BHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances BHA must process interim reexaminations to reflect those changes. HUD regulations also permit

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BHA 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. BHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and BHA policies describing what changes families are required to report, what changes families may choose to report, and how BHA will process both BHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The BHA 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, BHA has limited discretion in this area.

BHA Policy

BHA will only conduct interim reexaminations when families have an increase in income of at least $200 per month. Interim reexaminations are not conducted on income increases of less than $200 per month unless:

- The increase in income is because a person with income joins the household.
- The increase in household income is the result of *new* income.
- A decrease in the same source of income previously resulted in a reduction in tenant rent (i.e. a tenant's hours were reduced from 30 hours per week to 20 hours a week and BHA conducted an interim reexamination to decrease the tenant portion of rent; a month later the hours are increased to 25 hours per week. In this instance an interim reexamination will be conducted to include the increase in hours).

Families will be required to report all increases in income/assets within 10 business days of receipt of the increased income (i.e. first paycheck, etc.)

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 BHA approval. However, the family is required to promptly notify BHA of the addition [24 CFR 982.551(h)(2)].

BHA Policy

The family must inform BHA of the birth, adoption or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

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With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request BHA 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, BHA 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), BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, BHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

BHA Policy

Families must request BHA 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 made in writing and approved by BHA prior to the individual moving in the unit.

The BHA will not approve the addition of a new family or household member unless the individual meets BHA's eligibility criteria (see Chapter 3).

The BHA will not approve additional household members added to the household other than by birth, marriage, court awarded custody, or reasonable accommodation if it will cause a violation of HQS space standards.

If BHA determines an individual meets BHA's eligibility criteria as defined in Chapter 3, BHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

Additional household members added to the HCV other than by birth, marriage, court awarded custody, or reasonable accommodation will not amend the voucher size. The original household composition at time of application will be used to determine voucher size.

If BHA determines that an individual does not meet BHA's eligibility criteria as defined in Chapter 3, BHA 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 BHA will make its determination within 30 business days of receiving all information required to verify the individual's eligibility.

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11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because BHA 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, BHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

BHA-Initiated Interim Reexaminations

BHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by BHA. They are not scheduled because of changes reported by the family.

BHA Policy

The BHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), BHA will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent Phase-in period).

If the family has reported zero income, BHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income); BHA 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, BHA will conduct an interim reexamination.

The BHA 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 BHA 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)].

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Required Reporting

HUD regulations give BHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

BHA Policy

BHA will conduct interim reexaminations when families have an increase in income of at least $200 per month. Interim reexaminations are not conducted on income increases of less than $200 per month unless:

- The increase in income is because a person with income joins the household.
- The increase in household income is the result of *new* income.
- A decrease in the same source of income previously resulted in a reduction in tenant rent (i.e., a tenant's hours were reduced from 30 hours per week to 20 hours a week and MCHA conducted an interim reexamination to decrease the tenant portion of rent; a month later the hours are increased to 25 hours per week. In this instance an interim reexamination will be conducted to include the increase in hours).

Families will be required to report all increases in income/assets within 10 business days of receipt of the increased income (i.e. first paycheck, first increased social security check, etc.).

Decreases in Income:

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. BHA must calculate the change if a decrease in income is reported. If a tenant has a decrease in income or change in family composition that may result in a decrease in tenant rent they may report this change to the housing authority. Changes must be reported by the **20th** of the month for the change to be effective the first of the month following that in which the change is reported. If the decrease is reported after the 20th of the month, the decrease in tenant rent will be effective the first of the month following the upcoming month (i.e. if the change is reported July 25 then the decrease in rent will be effective September 1)

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)].BHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

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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.

BHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, BHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, BHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

BHA Policy

The family must notify BHA of changes in writing using a BHA-approved form.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if BHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, BHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from BHA. This time frame may be extended for good cause with BHA approval. BHA will accept required documentation by mail, by fax, or in person.

Effective Dates

The BHA 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].

BHA Policy

If the family share of the rent is to *increase*:

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- 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.

BHA will conduct interim reexaminations when families have an increase in income of at least $200 per month. Interim reexaminations are not conducted on income increases of less than $200 per month unless:

- The increase in income is because a person with income joins the household.

- The increase in household income is the result of *new* income.

- A decrease in the same source of income previously resulted in a reduction in tenant rent (i.e. a tenant's hours were reduced from 30 hours per week to 20 hours a week and MCHA conducted an interim reexamination to decrease the tenant portion of rent; a month later the hours are increased to 25 hours per week. In this instance an interim reexamination will be conducted to include the increase in hours).

Families will be required to report all increases in income/assets within 10 business days of receipt of the increased income (i.e. first paycheck, first increased social security check, etc.).

Decreases in Income:

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. BHA must calculate the change if a decrease in income is reported. If a tenant has a decrease in income or change in family composition that may result in a decrease in tenant rent they may report this change to the housing authority. Changes must be reported by the **20th** of the month for the change to be effective the first of the month following that in which the change is reported. If the decrease is reported after the 20th of the month, the decrease in tenant rent will be effective the first of the month following the upcoming month (i.e. if the change is reported July 25 then the decrease in rent will be effective September 1)

In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

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Part III: Recalculating Family Share and Subsidy Amount

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, BHA 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 BHA'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 BHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If BHA'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.

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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 BHA'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 BHA'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, BHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, BHA must use BHA current utility allowance schedule [24 CFR 982.517(d)(2)].

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

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The BHA 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 BHA'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).

> BHA Policy
>
> The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

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11-III.D. DISCREPANCIES

During an annual or interim reexamination, BHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, BHA may discover errors made by BHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

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CHAPTER 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a BHA 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 BHA 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 BHA may consider in lieu of termination, the criteria BHA must use when deciding what action to take and the steps BHA 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 BHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits BHA 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 BHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of BHA subsidy goes down. If the amount of HCV assistance provided by BHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

BHA Policy

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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 BHA 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 BHA terminate the family's assistance at any time.

BHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or cohead. Before terminating the family's assistance, BHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires BHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]

The BHA 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.

BHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, BHA 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, BHA 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)]

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The BHA 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 BHA 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 BHA, 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 BHA 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 BHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, BHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and BHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

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12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires BHA to establish policies that permit BHA to terminate assistance if BHA 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

BHA Policy

The BHA 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 BHA 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 BHA 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, BHA 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, BHA 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).

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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.

BHA Policy

The BHA 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 BHA 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, BHA 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, BHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]

HUD permits BHA to terminate assistance under a number of other circumstances. It is left to the discretion of BHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHA's from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

BHA Policy

The BHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

The BHA **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 BHA policies.

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

Any PHA has ever terminated assistance under the program for any member of the family.

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

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Any family member has been arrested or convicted of a sex-related crime and/or if any household member is subject to police registration.

The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

The family has not reimbursed any PHA for amounts paid by a PHA 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 BHA.

A family member has engaged in or threatened violent or abusive behavior toward BHA personnel.

- *Abusive or violent behavior towards BHA 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, BHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and Section 12-II.E. Upon consideration of such alternatives and factors, BHA may, on a case-by-case basis, choose not to terminate assistance.

Part II: Approach to Termination of Assistance

12-II.A. OVERVIEW

The BHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give BHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions BHA may choose to take when it has discretion, and outlines the criteria BHA 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 BHA terminates assistance depends upon individual circumstances. HUD permits BHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,

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- 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, BHA 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)].

BHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon BHA request.

Repayment of Family Debts

BHA Policy

If a family owes amounts to BHA, as a condition of continued assistance BHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from BHA 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 BHA 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)].

BHA Policy

The BHA 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

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

The BHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

BHA Policy

The BHA 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 or (as discussed further in section 12-II.E) 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 BHA 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, BHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, BHA will determine whether the behavior is related to the disability. If so, upon the family's request, BHA will

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determine whether alternative measures are appropriate as a reasonable accommodation. BHA 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 BHA 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 BHA to terminate the assistance of any participant if BHA "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

BHA Policy

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, BHA will require the individual to provide a signed statement certifying that claim.

The documentation must include one of 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, or one of the following:
    - A police or court record documenting the actual or threatened abuse, or

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- 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 BHA within 14 business days after BHA issues their written request. The 14-day deadline may be extended at BHA's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, BHA may proceed with assistance termination.

If BHA 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, BHA 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 BHA 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 BHA 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].

<u>BHA Policy</u>

When the actions of a participant or other family member result in a BHA 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, BHA 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, BHA will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, BHA will proceed with termination of the family's assistance.

If BHA 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

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terminated, BHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

BHA Confidentiality Requirements

All information provided to BHA 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, BHA 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)].

BHA Policy

When termination is initiated by BHA, 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 BHA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time BHA learns the family has vacated the unit.

In circumstances where the only member of the household becomes deceased, BHA will not provide 30 days notice. The owner will be entitled to housing assistance payments for the remainder of the calendar month in which the tenant passed away and no further housing assistance payments will be made.

When a family requests to be terminated from the program they must do so in writing to BHA (see section 12-I.C.).BHA will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The BHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's

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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)BHA 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 BHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

BHA Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

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; BHA 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, PUB.L. 109-162]

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

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The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, BHA'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.

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The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.).

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.

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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 BHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give BHA a copy of any eviction notice (see Chapter 5).

BHA Policy

If the eviction action is finalized in court, the owner must provide BHA 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), PUB.L. 109-162]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or

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successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (See Section 12-II.E.)

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 BHA has no other grounds for termination of assistance, BHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

12-III.F. APPOINTMENT POLICY

All families are expected to promptly keep all appointments set with BHA, including periodic unit inspections, and briefing sessions and group appointments.

A family will be considered to have missed the appointment if it is more than fifteen (15) minutes late for any scheduled appointment

A family that neither requests a rescheduled appointment in writing within the time specified below nor appears for the appointment will be subject to termination of housing assistance or denial of subsidy.

If a family is unable to attend a scheduled appointment they must:

- Contact BHA by mail, fax, email, or hand-delivery at least two working days before the date of the originally scheduled appointment; and

- Provide documentation verifying the reason the family is unable to attend the appointment (e.g. verification of hospitalization or imprisonment, police report, etc); and

- In the case of a briefing session or other group meeting, confirm that BHA has another briefing session or other group meeting, as appropriate, already scheduled, and adequate apace to which to reschedule the family.

BHA will reschedule the appointment at a date and time specified by BHA.BHA will only reschedule the appointment one time.

The decision to reschedule will be made at the sole discretion of BHA. BHA will take into consideration extenuating circumstances beyond the control of the family that prevent it from attending a scheduled appointment (for example, a death or medical emergency in the immediate family or a serious traffic accident) and/or the household's history of missed appointments. The participant must provide documentation verifying the reason the family was unable to attend the scheduled appointment or to request a rescheduled appointment (for

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example, a funeral announcement, verification of hospitalization or imprisonment, or a police report).

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 BHA 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 BHA 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.

  BHA Policy

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

- The family must allow BHA 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.

  BHA Policy

  The BHA 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.

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

  BHA Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to BHA at the same time the owner is notified.

- The family must promptly give BHA 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 BHA. The family must promptly notify BHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request BHA approval to add any other family member as an occupant of the unit.

  BHA Policy

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

- The family must promptly notify BHA in writing if any family member no longer lives in the unit.

- If BHA has given approval, a foster child or a live-in aide may reside in the unit. BHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when BHA 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.

  BHA Policy

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

- The family must supply any information requested by BHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify BHA when the family is absent from the unit.

  BHA Policy

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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 BHA 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 BHA 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 BHA 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 BHA 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]

- A family fails to keep all appointments set with BHA, including periodic unit inspections and briefing sessions and group appointments.

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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 BHA'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 BHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including BHA 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

BHA is responsible for ensuring that very low income families have access to all types and ranges of affordable housing in BHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for BHA to ensure that a sufficient number of owners, representing all

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types and ranges of affordable housing in BHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, BHA must identify and recruit new owners to participate in the program.

BHA Policy

The BHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. BHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings at least once a year
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, BHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

BHA Policy

All BHA 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 BHA will provide owners with a handbook that explains the program, including HUD and BHA policies and procedures, in easy-to-understand language.

The BHA will give special attention to helping new owners succeed through activities such as:

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- Providing the owner with a designated BHA contact person.
- Coordinating inspection and leasing activities between BHA, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires BHA to aid families in their housing search by providing the family with a list of landlords or other parties known to BHA who may be willing to lease a unit to the family, or to help the family find a unit. Although BHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to BHA 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)].

BHA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify BHA. BHA 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. BHA 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 BHA, 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.

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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)].BHA 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 BHA 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, BHA 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 BHA 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.

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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 BHA 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 BHA), 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 BHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where BHA 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 BHA must not approve the assisted tenancy if BHA 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 BHA 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]

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The BHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. BHA 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 BHA 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 BHA (except a participant commissioner)
- Any employee of BHA, or any contractor, subcontractor or agent of BHA, 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. BHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by BHA 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, BHA, 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;

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- 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 BHA or assistance under the HCV program for an eligible BHA 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 BHA, description of the nature of the investment, including disclosure/divestiture plans.

Where BHA has requested a conflict of interest waiver, BHA may not execute the HAP contract until HUD has made a decision on the waiver request.

BHA Policy

In considering whether to request a conflict of interest waiver from HUD,BHA 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 BHA, at BHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If BHA 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].

BHA Policy

The BHA will refuse to approve a request for tenancy if BHA 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;

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- The owner has engaged in any drug-related criminal activity or any violent criminal activity;

- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of BHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

- The owner has a history or practice of renting units that fail to meet state or local housing codes; or

- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, BHA 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, BHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents BHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

<u>BHA Policy</u>

The BHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

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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 BHA.

The owner must cooperate with BHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with BHA.

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 BHA 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 BHA's obligations. Under the HAP contract, BHA 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 BHA's HCV program.

If BHA has given approval for the family of the assisted tenancy, the owner and BHA 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 BHA and owner [HCV Guidebook, pp 11-10 and 11-11].

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In general, the HAP contract cannot be modified. However, BHA has 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. BHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, BHA has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by BHA is deemed received by the owner (e.g., upon mailing by BHA or actual receipt by the owner).

BHA Policy

The BHA has not adopted a policy that defines when the housing assistance payment by BHA 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
- BHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- BHA 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

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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 BHA. 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, BHA 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. BHA 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 BHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus BHA 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 BHA 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 BHA, the excess amount must be returned immediately. If BHA determines that, the owner is not entitled to all or a portion of the HAP, BHA 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

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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 BHA, 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 BHA 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 BHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The BHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond BHA's control. In addition, late payment penalties are not required if BHA 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 BHA 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, BHA 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.

<u>BHA Policy</u>

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The owner must inform BHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform BHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide BHA 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, BHA 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 BHA 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
- 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 BHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The BHA 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. BHA may also obtain additional relief by judicial order or action.

The BHA 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

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established deadline. BHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

BHA Policy

Before BHA invokes a remedy against an owner, BHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, BHA 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 ,BHA 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 BHA terminates the HAP contract;
- The BHA 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 BHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by BHA;
- The Annual Contributions Contract (ACC) between BHA and HUD expires
- The BHA elects to terminate the HAP contract.

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BHA Policy

The BHA 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 BHA terminates the HAP contract, BHA 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].

BHA Policy

The HAP contract terminates at the end of the calendar month that follows the calendar month in which BHA gives written notice to the owner unless the tenant requests an informal hearing in compliance with BHA grievance procedures. BHA will continue making housing assistance payments during the grievance period. In cases where the tenant's program termination is upheld, housing assistance payments will terminate at the end of the month following that in which the final hearing determination is issued in order to give a final 30 day notice to both the tenant and landlord.

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 BHA.

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An owner under a HAP contract must notify BHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by BHA.

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 BHA finds acceptable. The new owner must provide BHA with a copy of the executed agreement.

BHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The BHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, BHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to BHA 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, BHA 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, BHA will process the leasing in accordance with the policies in chapter 9.

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CHAPTER 14

PROGRAM INTEGRITY

INTRODUCTION

The BHA is committed to ensuring that subsidy funds made available to BHA are spent in accordance with HUD requirements.

This chapter covers HUD and BHA 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 BHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures BHA 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

BHA Policy

The BHA anticipates that the vast majority of families, owners, and BHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that BHA's HCV program is administered effectively and according to the highest ethical and legal standards, BHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The BHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.
- The BHA 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.

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- The BHA 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 BHA forms and form letters that request information from a family or owner.

- BHA staff will be required to review and explain the contents of all HUD- and BHA-required forms prior to requesting family member signatures.

- The BHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

- The BHA will provide each BHA 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, BHA 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 BHA 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).

BHA Policy

In addition to the SEMAP quality control requirements, BHA will employ a variety of methods to detect errors and program abuse.

The BHA 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 BHA will compare family-reported income and expenditures to detect possible unreported income.

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Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHA's 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 BHA activities and notifies BHA of errors and potential cases of program abuse.

BHA Policy

The BHA 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 BHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

BHA Policy

The BHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

Whinchat Will Investigate

BHA Policy

The BHA 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 BHA 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 BHA 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 BHA may investigate possible instances of error or abuse using all available BHA and public records. If necessary, BHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

BHA Policy

The BHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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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 BHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed BHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether BHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

BHA Policy

In the case of family-caused errors or program abuse, BHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, BHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

BHA Policy

The BHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which BHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

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Part II: Corrective Measures and Penalties

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, BHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

BHA Policy

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 BHA or BHA 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 BHA to use incorrect information provided by a third party.

Family Reimbursement to BHA [HCV GB pp. 22-12 to 22-13]

BHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. BHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails

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to repay the excess subsidy, BHA will terminate the family's assistance in accordance with the policies in Chapter 12.

BHA Reimbursement to Family [HCV GB p. 22-12]

BHA Policy

The BHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to BHA [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)].

BHA Policy

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by BHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to BHA Board of Commissioners, employees, contractors, or other BHA 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 BHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The BHA 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

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In the case of program abuse caused by a family BHA may, at its discretion, impose any of the following remedies.

- The BHA may require the family to repay excess subsidy amounts paid by BHA, as described earlier in this section.
- The BHA 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 BHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The BHA 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 BHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to BHA any excess subsidy received. BHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, BHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

> <u>BHA Policy</u>
>
> In cases where the owner has received excess subsidy, BHA 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 BHA [Title 18 U.S.C. Section 1001].

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- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

  BHA Policy

  Any of the following will be considered evidence of owner program abuse:

  - Charging the family rent above or below the amount specified by BHA
  - 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 BHA Board of Commissioners, employees, contractors, or other BHA representatives
  - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to BHA
  - Residing in the unit with an assisted family

Remedies and Penalties

When BHA determines that the owner has committed program abuse, BHA 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 BHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

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14-II.D. BHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of BHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a BHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in BHA personnel policy.

BHA-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 BHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by BHA staff [HCV GB. 22-12].

BHA Reimbursement to Family or Owner

The BHA 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 BHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

BHA Policy

Any of the following will be considered evidence of program abuse by BHA 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 BHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of BHA activities, policies, or practices
- Misappropriating or misusing HCV funds

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- Destroying, concealing, removing, or inappropriately using any records related to the HCV program

- Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

BHA Policy

When BHA determines that program abuse by an owner, family, or BHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, BHA 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 BHA may retain a portion of program fraud losses that BHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The BHA 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 BHA 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 BHA 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 BHA related to the collection, these costs must be deducted from the amount retained by BHA.

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CHAPTER 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The BHA may permit a family to use any of the special housing types discussed in this chapter. However, BHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that BHA must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. BHA 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.

BHA Policy

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types:

- Part I: Single Room Occupancy
- Part II: Congregate Housing
- Part III: Group Homes
- Part IV: Shared Housing
- Part V: Cooperative Housing
- Part VI: Manufactured Homes (including manufactured home space rental)
- Part VII: Homeownership

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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 BHA'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. SRO's 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

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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 BHA, a family member or live-in aide may reside with the elderly person or person with disabilities. BHA 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), BHA 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), BHA 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.

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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 BHA, a live-in aide may live in the group home with a person with disabilities. BHA 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.

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15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on BHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, BHA 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.

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- *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

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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 BHA, a live-in aide may reside with the family to care for a person with disabilities. BHA 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, BHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The BHA 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

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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.

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(1) A family can choose to rent a manufactured home already installed on a space and BHA 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. BHA 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. BHA 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 BHA 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.

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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 BHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. BHA 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.

If the Housing Inspector is unable to access the under-side of the manufactured home, the owner may provide a certification that the unit has appropriate tie-downs.

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. BHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a BHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. BHA may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a BHA offers both forms of assistance, a family must choose which form of assistance to receive.

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The BHA 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 BHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. BHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability .BHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where BHA has otherwise opted not to implement a homeownership program.

The BHA 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. BHA may also establish additional initial requirements as long as they are described in BHA 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. BHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not BHA'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

- 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

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disabilities, BHA must grant an exemption from the employment requirement if BHA 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), BHA may limit homeownership assistance to families or purposes defined by BHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in BHA administrative plan.

If BHA limits the number of families that may participate in the homeownership option, BHA 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, BHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:

    - A public housing or Indian housing unit;

    - A unit receiving Section 8 project-based assistance;

    - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;

    - A college or other school dormitory;

    - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.

- The unit must be under construction or already exist at the time the family enters into the contract of sale.

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- 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 BHA 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 BHA-owned units all of the following conditions must be satisfied:

    - The BHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a BHA-owned unit is freely selected by the family without BHA pressure or steering;

    - The unit is not ineligible housing;

    - The BHA 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 BHA provided financing. All of these actions must be completed in accordance with program requirements.

The BHA must not approve the unit if BHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL BHA 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. BHA 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 BHA, BHA 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 BHA. HUD suggests the following topics for BHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);

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- 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 BHA 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 BHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The BHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If BHA offers a program of ongoing counseling for participants in the homeownership option, BHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If BHA does not use a HUD-approved housing counseling agency to provide the counseling, BHA 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 BHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The BHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until BHA 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

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qualified to report on property conditions, including major building systems and components.

The BHA may not require the family to use an independent inspector selected by BHA. The independent inspector may not be a BHA employee or contractor, or other person under control of BHA. However, BHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The BHA 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 BHA 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, BHA may deny approval of a seller for the same reasons a BHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The BHA 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. BHA must establish policies describing these requirements in the administrative plan.

A BHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

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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, BHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to BHA 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 BHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by BHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify BHA before moving out of the home.
- The family must notify BHA 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.

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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 PHA's, 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, BHA 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 BHA may pay the homeownership assistance payments directly to the family, or at BHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, BHA 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. However, a BHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The BHA must adopt policies for determining the amount of homeownership expenses to be allowed by BHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by BHA to cover:

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- 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 BHA allowance for maintenance expenses;
- The BHA allowance for costs of major repairs and replacements;
- The BHA 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 BHA 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 BHA 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 BHA allowance for maintenance expenses;
- The BHA allowance for costs of major repairs and replacements;
- The BHA 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 BHA determines that allowance of such

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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 BHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA 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 PHA.

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 BHA 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, BHA 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 BHA's policy regarding number of moves within a 12-month period.

The BHA 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.

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15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, BHA 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 BHA 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 BHA 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.

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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 BHA'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 BHA. This part describes policies for recovery of monies that BHA has overpaid on behalf of families, or to owners, and describes the circumstances under which BHA 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 BHA.

- 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 BHA will follow.

- Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes BHA'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.

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- Part VIII: Determination of Insufficient Funding. This part describes BHA'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 BHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a BHA fiscal year. If funds in the administrative fee reserve are not needed to cover BHA administrative expenses, BHA may use these funds for other housing purposes permitted by Federal, State and local law.

If BHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct BHA 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 BHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

BHA Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of BHA'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 BHA to adapt the program to local conditions. This part discusses how BHA 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).

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BHA Policy

Copies of the payment standard and utility allowance schedules are available for review in BHA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The BHA 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 BHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMR's) published annually by HUD. FMR's are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions, FMR's are set at the 40th percentile of rents in the market area.

The BHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within BHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, BHA 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, BHA 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 FMR's, BHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require BHA to make further adjustments if it determines that rent burdens for assisted families in BHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

BHA Policy

The BHA 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" BHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability**: BHA 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. BHA will compare the number of families who could be served under revised

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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, BHA will consider increasing the payment standard. In evaluating rent burdens, BHA will not include families renting a larger unit than their family unit size.

- **Quality of Units Selected**: BHA 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**: BHA 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:** BHA 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**: BHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on December 1st of every year unless, based on the proposed FMR's, it appears that one or more of BHA's current payment standard amounts will be outside the basic range when the final FMR's are published. In that case, BHA's payment standards will be effective October 1st instead of December 1st.

If BHA has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, BHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by BHA at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The BHA 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

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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 BHA 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 BHA'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 BHA's payment standard schedule.

When needed as a reasonable accommodation, BHA 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].BHA 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.

BHA Policy

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, BHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, BHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows BHA 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, BHA 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;

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- The BHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and

- The BHA 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, BHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of BHA's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The BHA 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 BHA-established utility allowance schedule is used in determining family share and BHA subsidy. BHA 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, BHA 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, BHA 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 BHA 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.

BHA Policy

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

Reasonable Accommodation

HCV program regulations require a BHA to approve a utility allowance amount higher than shown on BHA'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, BHA will approve an allowance for air-conditioning, even if BHA 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 BHA 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. Any revisions to BHA utility schedule will be made effective May 1st.

The BHA 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 BHA 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.

BHA is 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

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The BHA 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 BHA 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 BHA
- General policy issues or class grievances
- A determination of the family unit size under BHA subsidy standards
- A BHA determination not to grant approval of the tenancy
- A BHA determination that the unit is not in compliance with the HQS
- A BHA determination that the unit is not in accordance with the HQS due to family size or composition

BHA Policy

The BHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on BHA 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 BHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for BHA 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

BHA Policy

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A request for an informal review must be made in writing and delivered to BHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHA's denial of assistance.

Except as provided in Section 3-III.G, BHA must schedule and send written notice of the informal review within 10 business days of the family's request.

In situations where an attorney or other advocate has appeared on behalf of the Section 8 participant, a copy of documents such as notices to schedule or reschedule a hearing, hearing decision, and BHA determinations will be sent to the advocate in addition to the Section 8 participant when there is a signed "Release of Information" on file.

Informal Review Procedures [24 CFR 982.554(b)]

BHA Policy

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of BHA.

The person conducting the review will make a recommendation to BHA, but BHA 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 BHA must notify the applicant of BHA's final decision, including a brief statement of the reasons for the final decision.

BHA Policy

In rendering a decision, BHA 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. BHA 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, BHA will uphold the decision to deny assistance.

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If the facts prove the grounds for denial, and the denial is discretionary, BHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The BHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 30 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, PUB.L. 109-162]

BHA must offer an informal hearing for certain BHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to BHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether BHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and BHA policies.

The BHA 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 BHA 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 BHA utility allowance schedule
- A determination of the family unit size under BHA's subsidy standards

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- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under BHA's subsidy standards, or BHA 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 BHA 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 BHA

- General policy issues or class grievances

- Establishment of BHA schedule of utility allowances for families in the program

- A BHA determination not to approve an extension or suspension of a voucher term

- A BHA determination not to approve a unit or tenancy

- A BHA determination that a unit selected by the applicant is not in compliance with the HQS

- A BHA determination that the unit is not in accordance with HQS because of family size

- A determination by BHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

<u>BHA Policy</u>

The BHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

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When BHA makes a decision that is subject to informal hearing procedures, BHA 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, BHA 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 BHA'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.

BHA Policy

In cases where BHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The name and address of participant;
- The date of notice;
- A specific citation to the program rule alleged to have been violated;
- A summary of the requirements of the rule which is alleged to have been violated;
- Specific factual allegations (whom, what, when, where) constituting a violation of the program rule or rules cited in the notice;
- Statement that the participant has a right to request an informal hearing to contest BHA's proposed termination of assistance;
- Statement of the specific date of the deadline for requesting an informal hearing;
- Description of how the participant must make the request for an informal hearing;
- Statement of the participant's right to examine and copy BHA documents in advance of the informal hearing;
- Statement that the participant has the right to present evidence at the informal hearing consistent with the agency's Administrative Plan, including witness testimony and documentary evidence;
- Statement that the participant has the right to question adverse witnesses at the informal hearing;
- Statement that the participant has the right to be represented by an attorney or other advocate, and a list of agencies and phone numbers where assistance may be requested.

Scheduling an Informal Hearing **[24 CFR 982.555(d)]**

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When an informal hearing is required, BHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

BHA Policy

A request for an informal hearing must be made in writing and delivered to BHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHA's decision or notice to terminate assistance.

The BHA must schedule and send written notice of the informal hearing to the family within 10 business 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 two business days prior to the hearing date. At its discretion, BHA 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 BHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. BHA 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 BHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any BHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If BHA does not make the document available for examination on request of the family, BHA may not rely on the document at the hearing.

The BHA hearing procedures may provide that BHA must be given the opportunity to examine at BHA offices before the hearing, any family documents that are directly relevant to the hearing. BHA must be allowed to copy any such document at BHA's expense. If the family does not make the document available for examination on request of BHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

BHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of twenty-five (25) cents per page. The family must request discovery of BHA

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documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date

The BHA must be given an opportunity to examine at BHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, BHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

***Participant's Right to Bring Counsel* [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer* [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by BHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing

BHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- A BHA representative(s) and any witnesses for BHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by BHA 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 BHA's hearing procedures [24 CFR 982.555(4)(ii)].

BHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the

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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.

The participant may request that BHA tape record the hearing. Such requests must be made in writing three business days prior to the scheduled hearing date. If a request is made, a copy of the tape recording (not a transcript) will be made available to the participant for the actual cost of the tape itself. Payment for the tape must be made at the time of the Informal Hearing.

***Evidence* [24 CFR 982.555(e)(5)]**

The BHA 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.

BHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence**: the testimony of witnesses
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to BHA. 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 BHA 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)]**

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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.

BHA Policy

In rendering a decision, the hearing officer will consider the following matters:

- **BHA Notice to the Family**: The hearing officer will determine if the reasons for BHA's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if BHA and the family were given the opportunity to examine any relevant documents in accordance with BHA policy.
- **BHA Evidence to Support BHA 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 BHA'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 BHA policies. If the grounds for termination are not specified in the regulations or in compliance with BHA policies, then the decision of BHA will be overturned.

The hearing officer will issue a written decision to the family and BHA no later than 30 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of BHA 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

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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 BHA's decision.

Order: The hearing report will include a statement of whether BHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct BHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct BHA to restore the participant's program status.

Procedures for Rehearing or Further Hearing

BHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of BHA will take effect and another hearing will not be granted.

In addition, within ten (10) business days after the date the hearing officer's report is mailed to BHA and the participant, BHA 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 ten (10) business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of BHA 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.

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BHA Notice of Final Decision [24 CFR 982.555(f)]

The BHA is not bound by the decision of the hearing officer for matters in which BHA 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 BHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, BHA must promptly notify the family of the determination and the reason for the determination.

> BHA Policy
> The BHA 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 BHA'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 BHA 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 BHA 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].

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- 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 BHA 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 BHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, BHA 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 BHA with a copy of the written request for appeal and the proof of mailing.

BHA Policy

The BHA will notify the family in writing of the results of the USCIS secondary verification within ten (10) business days of receiving the results.

The family must provide BHA with a copy of the written request for appeal and proof of mailing within ten (10) business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to BHA, of its decision. When the USCIS notifies BHA of the decision, BHA must notify the family of its right to request an informal hearing.

BHA Policy

The BHA will send written notice to the family of its right to request an informal hearing within ten (10) business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

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After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that BHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of BHA 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 BHA 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 BHA 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.

> BHA Policy
>
> The family will be allowed to copy any documents related to the hearing at a cost of twenty-five (25) cents per page. The family must request discovery of BHA 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 BHA, and to confront and cross-examine all witnesses on whose testimony or information BHA 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 BHA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. BHA may, but is not required to provide a transcript of the hearing.

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BHA Policy

The BHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The BHA 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 BHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of BHA 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 BHA must retain for a minimum of five (5) years the following documents that may have been submitted to BHA by the family, or provided to BHA as part of the USCIS appeal or BHA 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

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Part IV: Owner or Family Debts to BHA

16-IV.A. OVERVIEW

BHA is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to BHA [24 CFR 982.54]. This part describes BHA's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

BHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, BHA holds the owner or participant liable to return any overpayments to BHA.

The BHA 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 BHA, BHA 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 BHA

BHA Policy

Any amount due to BHA by an owner must be repaid by the owner within 30 days of BHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, BHA 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 BHA 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, BHA will ban the owner from future participation in the program and pursue other modes of collection.

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Family Debts to BHA

BHA Policy

Any amount due to BHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, BHA 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, BHA 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 BHA 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

BHA Policy

Prior to the execution of a repayment agreement, the owner or family must pay ten (10) percent of the balance owed to BHA.

Payment Thresholds

BHA Policy

Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

Execution of the Agreement

BHA Policy

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

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BHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Non-Payment

BHA Policy

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 BHA, BHA will send the family a delinquency notice giving the family ten (10) business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and BHA will terminate assistance upon written notification to the family.

If a family receives three (3) delinquency notices for unexcused late payments the repayment agreement will be considered in default, and BHA will terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

BHA Policy

The BHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

Part V: Management Assessment (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure BHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each BHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect BHA in several ways.

- High-performing PHA's can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHA's with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].

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- PHA's 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, PHA's 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 PHA'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]

BHA 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 BHA board resolution and signed by BHA executive director. If BHA 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.

PHA's with less than 250 voucher units are only required to be assessed every other BHA fiscal year. HUD will assess BHA annually if BHA elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 CFR 985.105].

Failure of a BHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

BHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of BHA's SEMAP certification, HUD will rate BHA'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. BHA 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 BHA's certification on the indicator due to BHA'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.

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A BHA 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.

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SEMAP Indicators	
Indicator 1: Selection from the waiting list	**Maximum Score: 15**
• This indicator shows whether BHA has written policies in its administrative plan for selecting applicants from the waiting list and whether BHA 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 BHA's written policies, according to BHA's quality control sample.	
Indicator 2: Rent reasonableness	**Maximum Score: 20**
• This indicator shows whether BHA 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 BHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to BHA's quality control sample.	
Indicator 3: Determination of adjusted income	**Maximum Score: 20**
• This indicator measures whether BHA 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 BHA's quality control sample.	
Indicator 4: Utility allowance schedule	**Maximum Score: 5**
• This indicator shows whether BHA maintains an up-to-date utility allowance schedule. • Points are based on whether BHA has reviewed the utility allowance schedule and adjusted it when required, according to BHA's certification.	
Indicator 5: HQS quality control inspections	**Maximum Score: 5**
• This indicator shows whether a BHA supervisor reinspects a sample of units under contract during BHA 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 BHA'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 BHA-approved extension. • Points are based on whether BHA corrects all HQS deficiencies in accordance with required time frames, according to BHA's certification.	

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SEMAP Indicators	
Indicator 7: Expanding housing opportunities	**Maximum Points: 5**
• Only applies to BHA's with jurisdiction in metropolitan FMR areas. • This indicator shows whether BHA 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 BHA'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 BHA has adopted and implemented written policies in accordance with SEMAP requirements, according to BHA's certification.	
Indicator 8: FMR limit and payment standards	**Maximum Points: 5**
• This indicator shows whether BHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in BHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR. • Points are based on whether BHA has appropriately adopted a payment standard schedule(s), according to BHA's certification.	
Indicator 9: Annual reexaminations	**Maximum Points: 10**
• This indicator shows whether BHA 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 BHA 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 BHA 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**
• This indicator shows whether BHA 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 BHA fiscal year, or the percent of allocated budget authority that has been expended by BHA, according to data from BHA's last year-end operating statement that is recorded in HUD's accounting system.	

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SEMAP Indicators
Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances **Maximum Points**
• Only applies to PHA's with mandatory FSS programs. • This indicator shows whether BHA 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 PHA's that have received approval to establish success rate payment standard amounts, and isn't effective until the second full BHA 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 BHA 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 BHA fiscal year following initial use of payment standard amounts based on the FMR's set at the 50th percentile. • Additional points are available to PHA's 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.

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Part VI: Record Keeping

16-VI.A. OVERVIEW

The BHA 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, BHA 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, BHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, BHA 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 BHA budget and financial statements for the program;
- Records to document the basis for BHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

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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

BHA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

BHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BHA staff.

BHA 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 BHA may release the information collected.

Upfront Income Verification (UIV) Records

PHA's that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

BHA Policy

BHA has adopted and implemented EIV security procedures required by HUD.

Criminal Records

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The BHA may only disclose the criminal conviction records which BHA receives from a law enforcement agency to officers or employees of BHA, or to authorized representatives of BHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The BHA must establish and implement a system of records management that ensures that any criminal record received by BHA 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 BHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The BHA must establish and implement a system of records management that ensures that any sex offender registration information received by BHA 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 BHA 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 BHA other than under 24 CFR 5.905.

Medical/Disability Records

PHA's are not permitted to inquire about the nature or extent of a person's disability. BHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If BHA receives a verification document that provides such information, BHA should not place this information in the tenant file. BHA should destroy the document.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level

16-VII.A. OVERVIEW

The BHA 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 BHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(E)]

The BHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within five (5) business days of being so notified by any other medical health care professional.

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BHA Policy

The BHA 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, BHA 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 six (6) years old with an identified environmental intervention blood lead level.

If BHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s),BHA 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, BHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, BHA 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.

BHA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, BHA is not providing such a report.

Part VIII: Determination of Insufficient Funding

16-VIII.A. OVERVIEW

The HCV regulations allow BHA 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 BHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology BHA will use to determine whether or not BHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

BHA Policy

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The BHA 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 BHA'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, BHA 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 BHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, BHA 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 BHA to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

BHA Policy

The BHA 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 BHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The BHA 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

BHA Policy

The BHA 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 BHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The BHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

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16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [PUB.L. 109-162]

VAWA requires BHA to notify owners and managers of their rights and responsibilities under this law.

BHA Policy

Inform property owners and managers of their screening and termination responsibilities related to VAWA. BHA 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 BHA lobby and/or mass mailings which include model VAWA certification forms.

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CHAPTER 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and BHA 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 BHA 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 BHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how BHA 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.

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Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

Part I: General Requirements

17-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHA's 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]. BHA may only operate a PBV program if doing so is consistent with BHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

BHA Policy

The BHA 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, BHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, BHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of BHA 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.

BHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, BHA policies for the tenant-based voucher program

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contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. BHA may not use voucher program funds to cover relocation costs, except that BHA may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of BHA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The BHA 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, BHA must comply with BHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

Part II: PBV Owner Proposals

17-II.A. OVERVIEW

The BHA must describe the procedures for owner submission of PBV proposals and for BHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, BHA 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].

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17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The BHA must select PBV proposals in accordance with the selection procedures in BHA administrative plan. BHA must select PBV proposals by either of the following two methods.

- BHA request for PBV Proposals. BHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to BHA request. BHA 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 BHA 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)]

BHA 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 BHA. 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 BHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

BHA Policy

BHA Request for Proposals for Rehabilitated and Newly Constructed Units

The BHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

In addition, BHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The BHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units BHA estimates that it will be able to assist under the funding BHA is making available. Proposals will be due in

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BHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to BHA 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 BHA 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 BHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, BHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

BHA Requests for Proposals for Existing Housing Units

The BHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

In addition, BHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The BHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units BHA estimates that it will be able to assist under the funding BHA 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 BHA goal of deconcentrating poverty and expanding housing and economic opportunities;

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- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

- Extent to which units are occupied by families that are eligible to participate in the PBV program.

BHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The BHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The BHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

In addition to, or in place of advertising, BHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. BHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers BHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

BHA-owned Units [24 CFR 983.51(e) and 983.59]

A BHA-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 BHA-owned units were appropriately selected based on the selection procedures specified in BHA administrative plan. If BHA selects a proposal for housing that is owned or controlled by BHA, BHA must identify the entity that will review BHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of BHA-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In

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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 BHA jurisdiction (unless BHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

The BHA may only compensate the independent entity and appraiser from BHA ongoing administrative fee income (including amounts credited to the administrative fee reserve).BHA may not use other program receipts to compensate the independent entity and appraiser for their services. BHA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

BHA Notice of Owner Selection [24 CFR 983.51(d)]

The BHA 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.

BHA Policy

Within 10 business days of BHA making the selection, BHA will notify the selected owner in writing of the owner's selection for the PBV program. BHA 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, BHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals BHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. BHA will also post the notice of owner selection on its electronic web site.

The BHA will make available to any interested party its rating and ranking sheets and documents that identify BHA 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. BHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The BHA will make these documents available for review at BHA during normal business hours. The cost for reproduction of allowable documents will be twenty-five (25) cents per page.

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17-II.C. HOUSING TYPE [24 CFR 983.52]

The BHA 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 BHA 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 BHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. BHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The BHA 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, BHA may not attach or pay PBV assistance for a unit occupied by an owner and BHA 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 BHA may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves BHA determination. BHA 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.

BHA Policy

The BHA will not use high-rise elevator projects for families with children.

Subsidized Housing [24 CFR 983.54]

A BHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;

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- 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 BHA 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 BHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The BHA 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 BHA must submit the necessary documentation to HUD for a subsidy layering review. BHA 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.

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17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, BHA 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 or families receiving supportive services (also known as *qualifying families*).

BHA must include in BHA 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 BHA 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 BHA 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 BHA 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. BHA administrative plan must state the form and frequency of such monitoring.

> <u>BHA Policy</u>
>
> BHA 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 or disabled families.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

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A BHA 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 BHA 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 BHA may also determine not to provide PBV assistance for excepted units, or BHA may establish a per-building cap of less than 25 percent.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The BHA 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 BHA 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 BHA Plan under 24 CFR 903 and BHA administrative plan.

In addition, prior to selecting a proposal, BHA 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).

BHA Policy

It is BHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal BHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, BHA will grant exceptions to the 20 percent standard where BHA 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;

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- 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 BHA 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 BHA 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;

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- 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 BHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;

- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The BHA 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.).BHA 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 BHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and BHA, 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.

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The BHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. BHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

Part III: Dwelling Units

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.
The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.BHA 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)

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17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The BHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, BHA 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, BHA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The BHA must inspect each contract unit before execution of the HAP contract. BHA 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, BHA must inspect the unit. BHA 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, BHA 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, BHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The BHA 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 .BHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The BHA 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 BHA supervisory quality control HQS inspections, BHA should include a representative sample of both tenant-based and project-based units.

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Inspecting BHA-owned Units [24 CFR 983.103(f)]

In the case of BHA-owned units, the inspections must be performed by an independent agency designated by BHA and approved by HUD. The independent entity must furnish a copy of each inspection report to BHA and to the HUD field office where the project is located .BHA 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 BHA-owner.

Part IV: Rehabilitated and Newly Constructed Units

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, BHA 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 BHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, BHA 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;

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- 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 BHA, 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 BHA notice of proposal selection to the selected owner. However, BHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, BHA may not enter into the Agreement until the environmental review is completed and BHA has received environmental approval.

BHA Policy

The BHA will enter into the Agreement with the owner within ten (10) business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. BHA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

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The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to BHA in the form and manner required by BHA:

- 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 BHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

> <u>BHA Policy</u>
>
> The BHA 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. BHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

BHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, BHA 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. BHA must also determine if the owner has submitted all required evidence of completion.

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If the work has not been completed in accordance with the Agreement, BHA must not enter into the HAP contract.

If BHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, BHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

Part V: Housing Assistance Payments Contract (HAP)

17-V.A. OVERVIEW

The BHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and

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- 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 BHA may not enter into a HAP contract until each contract unit has been inspected and BHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after BHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after BHA 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.

BHA Policy

For existing housing, the HAP contract will be executed within ten (10) business days of BHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within ten (10) business days of BHA 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 BHA may enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than ten (10) years.

BHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, BHA may extend the term of the contract for an additional term of up to five years if BHA 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.

BHA Policy

When determining whether or not to extend an expiring PBV contract, BHA 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;

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- 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 BHA [24 CFR 983.205(c)]

The HAP contract must provide that the term of BHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by BHA 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, BHA 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 BHA. 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 BHA 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 BHA determines that a contract does not comply with HQS,BHA 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.

<u>BHA Policy</u>

The BHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

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17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At BHA'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, BHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At BHA'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 BHA'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.

BHA Policy

The BHA will consider adding contract units to the HAP contract when BHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(C) AND 983.302(E)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

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17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with 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 BHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with 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 BHA 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 BHA 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.

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BHA Policy

The BHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. BHA 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 BHA, the HAP contract may provide for vacancy payments to the owner for a BHA-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 BHA 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).

BHA Policy

The BHA will decide on a case-by-case basis if BHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

Part VI: Selection of PBV Program Participants

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(A) AND (B)]

The BHA may select families for the PBV program from those who are participants in BHA'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 BHA, have income at or below HUD-specified income limits, and qualify on

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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 BHA'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.

BHA Policy

The BHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by BHA 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 BHA's waiting list. Once the family's continued eligibility is determined (the BHA 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 BHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(C)]

The BHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. BHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by BHA. If BHA chooses to offer a separate waiting list for PBV assistance, BHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a BHA decides to establish a separate PBV waiting list, BHA may use a single waiting list for BHA'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.

BHA Policy

The BHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. BHA currently has waiting lists for the following PBV projects:

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[Insert list of project/buildings receiving PBV assistance for which separate waiting lists are maintained].

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(C)]

Applicants who will occupy units with PBV assistance must be selected from BHA's waiting list. BHA may establish selection criteria or preferences for occupancy of particular PBV units. BHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to BHA's tenant-based and project-based voucher programs during BHA 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, BHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The BHA 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. BHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although BHA is prohibited from granting preferences to persons with a specific disability, BHA 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.

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If BHA 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),BHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

BHA Policy

The BHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units).BHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The BHA 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 BHA’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, BHA 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, BHA must provide a briefing packet that explains how BHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

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If an applicant family's head or spouse is disabled, BHA 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, BHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The BHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by BHA from BHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on BHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify BHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, BHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. BHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

> <u>BHA Policy</u>
>
> The owner must notify BHA in writing (mail, fax, or e-mail) within five (5) business days of learning about any vacancy or expected vacancy.
>
> The BHA will make every reasonable effort to refer families to the owner within ten (10) business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, BHA may give notice to the owner amending the HAP contract to reduce the

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number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

BHA Policy

If any contract units have been vacant for 120 days, BHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. BHA will provide the notice to the owner within ten (10) business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of BHA's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

BHA Responsibility

The BHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, BHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

BHA Policy

The BHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The BHA must provide the owner with an applicant family's current and prior address (as shown in BHA records) and the name and address (if known by BHA) of the family's current landlord and any prior landlords.

In addition, BHA may offer the owner other information BHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. BHA must provide applicant families a description of BHA policy on providing information to owners, and BHA must give the same types of information to all owners.

BHA Policy

The BHA 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. BHA 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:

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

Part VII: Occupancy

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by BHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a BHA model lease.

The BHA may review the owner's lease form to determine if the lease complies with state and local law. If BHA determines that the lease does not comply with state or local law, BHA may decline to approve the tenancy.

<u>BHA Policy</u>

The BHA 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:

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- 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 BHA (the names of family members and any BHA-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, BHA 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 BHA a copy of all changes.

The owner must notify BHA 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 BHA and in accordance with the terms of the lease relating to its amendment. BHA 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.

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Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the 25 percent per building cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by BHA 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. BHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

BHA Policy

The BHA will allow the owner to collect a security deposit

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance form the tenant. BHA has no liability or responsibility for payment of any amount owed by the family to the owner.

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17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If BHA determines that a family is occupying a wrong size unit, based on BHA'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, BHA must promptly notify the family and the owner of this determination, and BHA must offer the family the opportunity to receive continued housing assistance in another unit.

BHA Policy

The BHA 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 ten (10) business days of BHA's determination. BHA 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 BHA offers the family a tenant-based voucher, BHA 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 BHA).

If BHA 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 BHA, or both, BHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by BHA.

BHA Policy

When BHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, BHA will terminate the housing assistance payments at the expiration of this 30-day period.

The BHA 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]

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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 BHA. If the family wishes to move with continued tenant-based assistance, the family must contact BHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, BHA 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, BHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

The BHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by BHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by BHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by BHA, and BHA 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

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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 BHA.

BHA Policy

The BHA 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 or disabled families.

Part VIII: Determining Rent to Owner

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the tem of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by BHA, 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;

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- 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 BHA-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 FMR's, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, BHA 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, BHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, BHA 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 standard amount for use in the PBV program.

Likewise, BHA 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.

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BHA Policy

Upon written request by the owner, BHA 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 FMR's or utility allowances and include documentation in support of the request. BHA 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, BHA 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 BHA determines it is necessary due to BHA budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The BHA 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 BHA, 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 BHA. BHA 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).

BHA Policy

An owner's request for a rent increase must be submitted to BHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The BHA 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.

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Notice of Rent Change

The rent to owner is redetermined by written notice by BHA to the owner specifying the amount of the redetermined rent. BHA 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.

BHA Policy

The BHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

BHA-owned Units [24 CFR 983.301(g)]

For BHA-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.BHA must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time, the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by BHA.

When Rent Reasonable Determinations are Required

The BHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five (5) 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 BHA 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, BHA must consider factors that affect market rent. Such factors include

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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 BHA. The comparability analysis may be performed by BHA 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.

BHA-owned Units

For BHA-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 BHA-owned units to BHA 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, BHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, a BHA 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;

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- 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

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, BHA 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 BHA agree on a later date.

Except for discretionary vacancy payments, BHA 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 BHA 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.

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17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if BHA determines that the vacancy is the owner's fault.

> BHA Policy
>
> If BHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, BHA will notify the landlord of the amount of housing assistance payment that the owner must repay .BHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of BHA, the HAP contract may provide for vacancy payments to the owner. BHA may only make vacancy payments if:

- The owner gives BHA 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 BHA 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 BHA and must provide any information or substantiation required by BHA to determine the amount of any vacancy payment.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by BHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in BHA 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 BHA 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 BHA. The owner must immediately return any excess payment to the tenant.

Tenant and BHA Responsibilities

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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 BHA.

Likewise, BHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. BHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. BHA 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, BHA 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 BHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If BHA chooses to pay the utility supplier directly, BHA must notify the family of the amount paid to the utility supplier.

BHA Policy

The BHA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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APPENDIX A - PIH 2008-20 Over Subsidization in the HCV Program

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

Special Attention of: Directors of HUD Regional and Field Offices of Public Housing; Agencies that Administer the Housing Choice Voucher Program	**Notice**	**PIH 2008-20 (HA)**
	Issued:	April 16, 2008
	Expires:	April 30, 2009
	Cross References: None	

Subject: Over Subsidization in the Housing Choice Voucher Program

1. Purpose The Office of Inspector General (OIG) issued a report on over subsidization in the Housing Choice Voucher (HCV) program due to the issuance of vouchers with unit sizes greater than the number of family members. Pursuant to the recommendation of the OIG, the Department is issuing clarifying guidance on the matter of categorization of live-in aides, other reasonable accommodation issues and corresponding data entry into the Public and Indian Housing Information Center (PIC).

A. Live-in Aides. The primary reason public housing agencies (PHA) issued vouchers with more bedrooms as recorded on line 12a of the Family Report (form HUD-50058) than the number of family members recorded on line 3t was related to live-in aides. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size voucher), the live-in aide must be identified by the family and approved by the PHA first.

The definition of a live-in aide is recorded in 24 CFR Section 5.403 which states that a live-in aide is a person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who is: (1) 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. It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the HCV as the remaining member of the tenant family.

In accordance with 24 CFR Section 982.316, the PHA must approve the person identified as the live-in aide. The PHA may disapprove such a person if s/he has: (1) committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal activity; or (3) currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act. Additionally, under 24 CFR Section 982.402(a), the PHA must establish subsidy standards to determine the number of bedrooms needed for families of different sizes and compositions. Consequently, PHAs may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA's subsidy standards for an unidentified live-in aide. The guidance outlined in this Notice is in accordance with these regulatory provisions.

Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live–in

aide since 24 CFR Section 982.402(7) implies live-in-aides must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards established by the PHA. Therefore, regardless of whether these caregivers spend the night, an additional bedroom should not be approved.

B. Medical Equipment. Although PHAs may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the PHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. However, the PHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

C. Other Causes. The secondary cause of over subsidization was the failure of the PHA to change the voucher unit size after changes in family composition. Although families are not required to move from an assisted unit when the number of bedrooms in the unit exceed the number of bedrooms for which the family is eligible, the payment standard must conform to the PHA's subsidy standards at the family's next annual recertification after the change in family composition.

2. PIC Data Entry. PHAs are expected to ensure that data on the Family Report (form HUD-50058) is correct when entered in PIC. Whenever there is a change in the subsidy standard and corresponding payment standard for which the family is eligible, lines 12a and 12j of the Family Report must be adjusted accordingly.

3. Effective Date. This Notice is effective upon publication.

4. Implementation. Voucher issuance for new admissions must conform to the guidance and program requirements outlined above. For existing families, PHAs must begin evaluating the number of bedrooms for which the family is eligible and any necessary changes to the payment standard at the family's next annual recertification.

5. Information Contact. Inquiries about this Notice should be directed to the staff in the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 708-0477.

6. Paperwork Reduction Act. The information collection requirements contained in this letter have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The following active information collections contained in this Notice have been approved under the PRA - OMB Control Number 2577-0083.

/s/

Paula O. Blunt, General Deputy Assistant Secretary
for Public and Indian Housing

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)

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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

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GLOSSARY OF SUBSIDIZED HOUSING TERMS

***Absorption*.** In portability (under subpart H of this part 982): the point at which a receiving BHA stops billing the initial BHA for assistance on behalf of a portability family. The receiving BHA uses funds available under the receiving BHA 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 BHA for administration of the program. See §982.152.

Administrative fee reserve (formerly "operating reserve"). Account established by BHA 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 BHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by BHA's board and included as a supporting document to BHA 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 BHA under which HUD agrees to provide funding for a program under the 1937 Act, and BHA 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.

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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 BHA program, budget authority is the maximum amount that may be paid by HUD to BHA 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 BHA.

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

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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 BHA 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 BHA 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.

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***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.

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***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 BHA 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.

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Family self-sufficiency program **(**FSS program). The program established by a BHA 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 BHA under BHA 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 BHA under the consolidated annual contributions contract for BHA 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 BHA 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 BHA, 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.

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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. ("BHA" 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.

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***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 BHA*.** In portability, the term refers to both: (1) A BHA that originally selected a family that later decides to move out of the jurisdiction of the selecting BHA; and (2) A BHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing BHA.

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 BHA 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 BHA.

***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 BHA 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. Transportable in more than one section and assembled on site. A special housing type: see §982.620 and §982.621.Also known as a modular home.

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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.

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- In determining net family assets, BHA 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.

BHA Plan. The annual plan and the 5-year plan as adopted by BHA and approved by HUD.

BHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a BHA 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 BHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by BHA 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).

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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 BHA.

***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 (BHA)*.** 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 BHA*.** In portability: A BHA that receives a family selected for participation in the tenant-based program of another BHA. The receiving BHA issues a voucher and provides program assistance to the family.

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***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 BHA 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 BHA 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.

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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 BHA 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 BHA 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 BHA decides to allow extensions or suspensions of the voucher term, BHA administrative plan must describe how BHA

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determines whether to grant extensions or suspensions, and how BHA 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 BHA 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 BHA 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.

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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 BHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for BHA 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 BHA 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 BHA with Voucher funding awarded to BHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

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HOUSING AUTHORITY OF THE CITY OF BREMERTON

BHA Section 8 Homeownership Capacity Statement

The Housing Authority of the City of Bremerton (BHA) has executed an Interlocal Agreement with Kitsap County Consolidated Housing Authority (KCCHA) for KCCHA to assist BHA in administering a Section 8 to Homeownership Program. Based on KCCHA's designation as a HUD Certified Housing Counseling agency and its extensive homeownership counseling experience, the following agreement has been established:

- Housing Counseling services to the KCCHA and BHA Section 8 to Homeownership program participants. The Homeownership Counseling services to be provided are outlined in the BHA Administrative Plan Chapter 15-VII.F. These services can be provided directly by KCCHA or through referrals to partnering agencies as identified by KCCHA.
- KCCHA shall serve as the point of contact in identifying local lenders to participate in the Section 8 to Homeownership program and will be responsible for executing Memorandums of Understanding with these lenders.
- BHA will assist KCCHA in gathering data as it relates to Section 8 to Homeownership clients in order to secure funding needed for the counseling services.

In addition, all aspects of the Section 8 Homeownership Program will be administered in compliance with 24 CFR 982 as outlined in BHA's Administrative Plan.

Attachment (6)

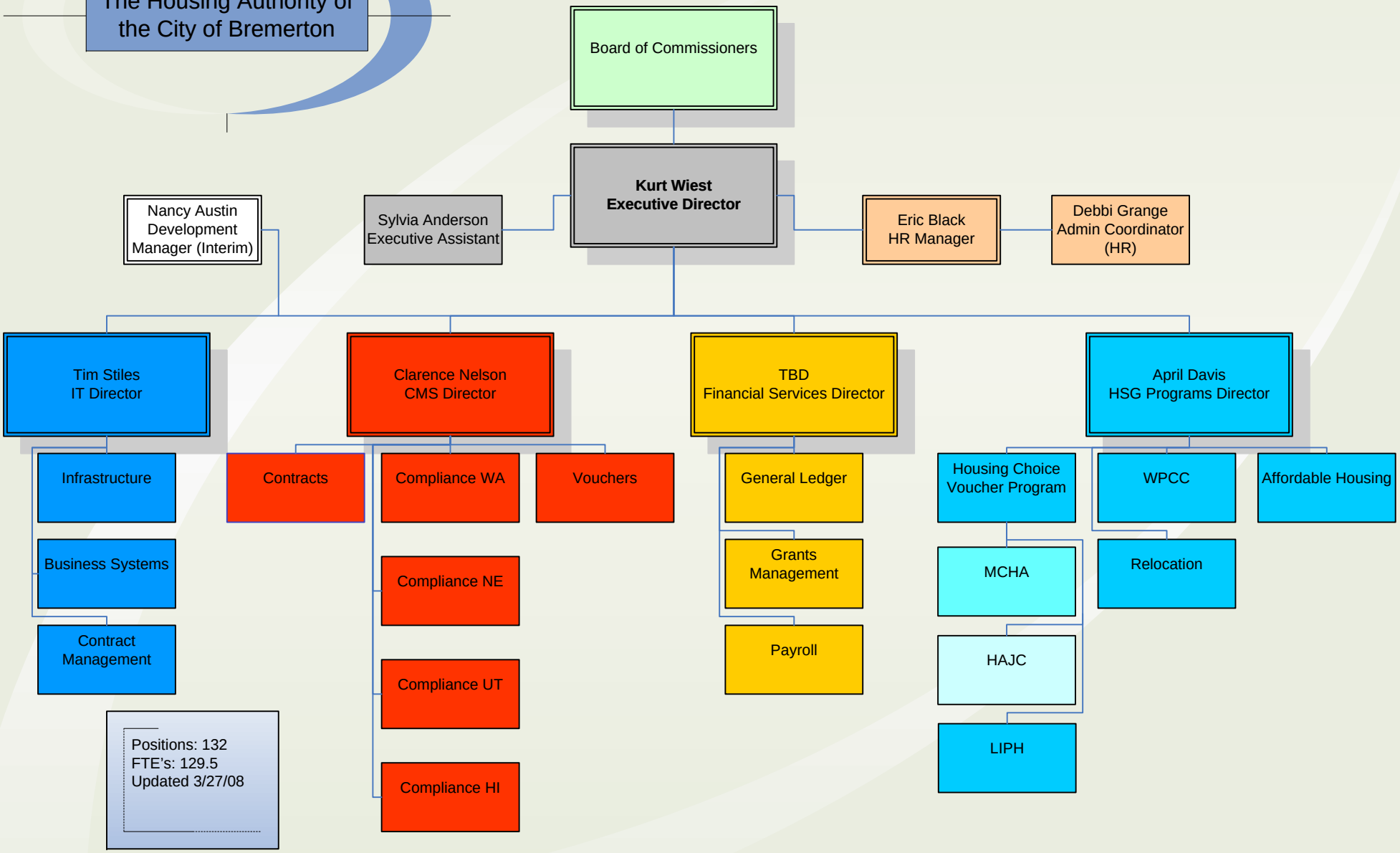
110 Russell Road · P.O. Box 4460 · Bremerton, WA 98312 · Phone: (360) 479-3694 · TTY: (360) 377-8606 · Fax: (360) 616-8558

The Housing Authority of the City of Bremerton (BHA) does not discriminate on the basis of race, color, creed, national origin, religion, disability, sex, sexual orientation, age (over 40), military status, whistleblower retaliation, or familial status in admission or access to its programs.
If you need to request a reasonable accommodation, contact the BHA Section 504 Coordinator at (360) 479-3694.

Equal Housing Opportunity

Barrier Free

The Housing Authority of the City of Bremerton



Attachment (7)