PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

1.0 PHA Information

PHA Name: **Housing Authority of the County of Monterey** PHA Code: **CA033**

PHA Type: ☐ Small ☐ High Performing ☒ Standard ☐ HCV (Section 8)

PHA Fiscal Year Beginning: (MM/YYYY): **07/2009**

2.0 Inventory (based on ACC units at time of FY beginning in 1.0 above)

Number of PH units: **575** Number of HCV units: **3879**

3.0 Submission Type

☐ 5-Year and Annual Plan ☒ Annual Plan Only ☐ 5-Year Plan Only

4.0 PHA Consortia ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.)

Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
				PH	HCV
PHA 1:					
PHA 2:					
PHA 3:					

5.0 5-Year Plan. Complete items 5.1 and 5.2 only at 5-Year Plan update.

5.1 Mission. State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:

5.2 Goals and Objectives. Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.

6.0 PHA Plan Update

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:

1) Admissions and Continued Occupancy Plan for Public Housing
2) Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor
3) Capitol Fund Program Five Year Plan
4) Elements of the Plan that have been revised:
- ***a) Eligibility, Selection and Admissions Policies, including Deconcentration and Wait List Procedures***
- ***b) Financial Resources***
- ***c) Operations and Management***
- ***d) Safety and Crime Prevention***
- ***e) Pets***
- ***f) Fiscal Year Audit***
- ***g) Violence Against Women Act (VAWA)***

(b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.

1) Main Administrative Office of the PHA

7.0 Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers. *Include statements related to these programs as applicable.*

See sections 7B, 8, 10 and 11 of the Plan Document as well as Attachment 6 for details.

8.0 Capital Improvements. Please complete Parts 8.1 through 8.3, as applicable.

8.1	**Capital Fund Program Annual Statement/Performance and Evaluation Report.** As part of the PHA 5-Year and Annual Plan, annually complete and submit the *Capital Fund Program Annual Statement/Performance and Evaluation Report,* form HUD-50075.1, for each current and open CFP grant and CFFP financing. ***See Attachment 1 for Capital Fund Program Annual Statement/Performance and Evaluation Report.***
8.2	**Capital Fund Program Five-Year Action Plan.** As part of the submission of the Annual Plan, PHAs must complete and submit the *Capital Fund Program Five-Year Action Plan,* form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan. ***See Attachment 2 for Capital Fund Program Five-Year Action Plan.***
8.3	**Capital Fund Financing Program (CFFP).** ☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.
9.0	**Housing Needs**. Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. ***See sections 1A, B and C of Plan Document for details.***

9.1	**Strategy for Addressing Housing 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. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.** ***See sections 1A, B and C of Plan Document for details.***
10.0	**Additional Information**. Describe the following, as well as any additional information HUD has requested. (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. ***See Executive Summary Section of Plan Document for details.*** (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification" ***There is no significant amendment or substantial deviation or modification.***

11.0	**Required Submission for HUD Field Office Review**. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only)

PHA Certifications of Compliance with PHA Plans and Related Regulations	U.S. Department of Housing and Urban Development Office of Public and Indian Housing **Expires 4/30/2011**

PHA Certifications of Compliance with the PHA Plans and Related Regulations: Board Resolution to Accompany the PHA 5-*Year and Annual* PHA Plan

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the___ 5-Year and/or X Annual PHA Plan for the PHA fiscal year beginning 7-2009 , hereinafter referred to as" the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA certifies that there has been no change, significant or otherwise, to the Capital Fund Program (and Capital Fund Program/Replacement Housing Factor) Annual Statement(s), since submission of its last approved Annual Plan. The Capital Fund Program Annual Statement/Annual Statement/Performance and Evaluation Report must be submitted annually even if there is no change.
4. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Board or Boards in developing the Plan, and considered the recommendations of the Board or Boards (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
7. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions.
8. For PHA Plan that includes a policy for site based waiting lists:
   - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2006-24);
   - The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
   - Adoption of site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
   - The PHA shall take reasonable measures to assure that such waiting list is consistent with affirmatively furthering fair housing;
   - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
10. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
11. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.

12. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
13. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
14. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
15. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
16. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
17. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
18. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
19. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
20. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
21. The PHA provides assurance as part of this certification that:
    (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
    (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
    (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
22. The PHA certifies that it is in compliance with all applicable Federal statutory and regulatory requirements.

Housing Authority of the County of Monterey — PHA Name

CA033 — PHA Number/HA Code

____ 5-Year PHA Plan for Fiscal Years 20____ - 20____

x Annual PHA Plan for Fiscal Years 20 09 - 20 10

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
James S. Nakashima	Executive Director
Signature	Date
	04/11/09

Civil Rights Certification	U.S. Department of Housing and Urban Development Office of Public and Indian Housing Expires 4/30/2011

Civil Rights Certification

Annual Certification and Board Resolution

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioner, I approve the submission of the Plan for the PHA of which this document is a part and make the following certification and agreement with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

Housing Authority of the County of Monterey	CA033
PHA Name	PHA Number/HA Code

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)	
Name of Authorized Official: Alan Styles	Title: Chairman, Board of Commissioners
Signature: Alan D. Styles	Date: 4/1/09

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Housing Authority of the County of Monterey

Program/Activity Receiving Federal Grant Funding

Capital Fund Grant Program

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Oceanview Apartments (AMP # CA033000107), 44 Natividad Road, Salinas, Monterey, CA 93906

Check here [ ] if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
James S. Nakashima	Executive Director
Signature X	Date 1-27-09

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

OMB Approval No. 2577-0157 (Exp. 3/31/2010)

Certification of Payments to Influence Federal Transactions

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

Applicant Name

Housing Authority of the County of Monterey

Program/Activity Receiving Federal Grant Funding

Capital Fund Grant Program

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
James S. Nakashima	Executive Director

Signature	Date (mm/dd/yyyy)
	01/27/2009

Previous edition is obsolete

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action:
[B] a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
[A] a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
[A] a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
[x] Prime [ ] Subawardee
Tier _____, *if known*:
Housing Authority of the County of Monterey
123 Rico Street, Salinas, CA 93907
Congressional District, *if known*: 17

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
Congressional District, *if known*:

6. Federal Department/Agency:
Department of HUD, Public & Indian Housing

7. Federal Program Name/Description:
Capital Fund Grant Program
CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Registrant
(*if individual, last name, first name, MI*):
Housing Authority of the County of Monterey
123 Rico Street, Salinas, CA 93907

b. Individuals Performing Services (*including address if different from No. 10a*)
(*last name, first name, MI*):

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature:
Print Name: James S. Nakashima
Title: Executive Director
Telephone No.: (831) 775-5000 Date: 1-27-09

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan

I, *Richard S. Marvin* the *Housing & Property Manager* certify that the Five Year and Annual PHA Plan of the *HA of the County of Monterey* is consistent with the Consolidated Plan of *City of Monterey* prepared pursuant to 24 CFR Part 91.

Richard S. Marvin 3/2/09

Signed / Dated by the Housing and Property Manager, as designated by the City Manager

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan

I, *Artie Fields* the *City Manager, City of Salinas* certify that the Five Year and Annual PHA Plan of the *HA of the County of Monterey* is consistent with the Consolidated Plan of *City of Salinas* prepared pursuant to 24 CFR Part 91.

Feb 23, 2009

Signed / Dated by Appropriate State or Local Official

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan

I, *Ray Corpuz* the *City Manager, City of Seasode* certify that the Five Year and Annual PHA Plan of the *HA of the County of Monterey* is consistent with the Consolidated Plan of *City of Seaside* prepared pursuant to 24 CFR Part 91.

2-2-09

Signed / Dated by Appropriate State or Local Official

OMB Approval No: 2577-0226
Expires: 08/31/2009

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

PHA Plans

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

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

PHA Plan
Agency Identification

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

PHA Fiscal Year Beginning: (mm/yyyy) 07/2009

PHA Programs Administered:

☒**Public Housing and Section 8** ☐**Section 8 Only** ☐**Public Housing Only**

Number of public housing units: **595** Number of S8 units: **3879**

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

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

Public Access to Information

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

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

Display Locations For PHA Plans and Supporting Documents

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

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

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

- ☒ Main business office of the PHA
- ☐ PHA development management offices
- ☐ Other (list below)

5-YEAR PLAN
PHA FISCAL YEARS 2005 - 2009
[24 CFR Part 903.5]

A. Mission

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

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

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

B. Goals

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

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

☒ PHA Goal: Expand the supply of assisted housing
Objectives:
- ☒ Apply for additional rental vouchers:
- ☒ Reduce public housing vacancies:
- ☒ Leverage private or other public funds to create additional housing opportunities:
- ☒ Acquire or build units or developments
- ☒ Other (list below):

"As capacity and funding allow, develop partnerships with service providers that promote self-sufficiency of families and individuals."

☒ PHA Goal: Improve the quality of assisted housing
Objectives:
- ☒ Improve public housing management: (PHAS score) 82
- ☒ Improve voucher management: (SEMAP score) 97
- ☒ Increase customer satisfaction:
- ☒ Concentrate on efforts to improve specific management functions: (list; e.g., public housing finance; voucher unit inspections)
  Improve Capital Planning and Property Management Reporting

- ☒ Renovate or modernize public housing units:
- ☒ Demolish or dispose of obsolete public housing:
- ☐ Provide replacement public housing:
- ☒ Provide replacement vouchers:
- ☒ Other: (list below)
  "Dispose of public housing that is financially unfeasible to operate and maintain."

☒ PHA Goal: Increase assisted housing choices
Objectives:

- ☒ Provide voucher mobility counseling:
- ☒ Conduct outreach efforts to potential voucher landlords
- ☒ Increase voucher payment standards
- ☒ Implement voucher homeownership program:
- ☒ Implement public housing or other homeownership programs:
- ☒ Implement public housing site-based waiting lists:
- ☒ Convert public housing to vouchers:
- ☒ Other: (list below)
  "Project Based Section 8 Housing Choice Vouchers are made available for new multifamily projects in order to meet the housing needs of the County."

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

☒ PHA Goal: Provide an improved living environment
Objectives:

- ☒ Implement measures to deconcentrate poverty by bringing higher income public housing households into lower income developments:
- ☒ Implement measures to promote income mixing in public housing by assuring access for lower income families into higher income developments:
- ☒ Implement public housing security improvements:
- ☐ Designate developments or buildings for particular resident groups (elderly, persons with disabilities)
- ☒ Other: (list below)
  "Continue to analyze crime statistics and improve properties to combat crime and increase safety."

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

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

Objectives:

- ☒ Increase the number and percentage of employed persons in assisted families:
- ☒ Provide or attract supportive services to improve assistance recipients' employability:
- ☒ Provide or attract supportive services to increase independence for the elderly or families with disabilities.
- ☒ Other: (list below)
  "Continue collaboration with service providers in order to increase services for the elderly and persons with disabilities."

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

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

Objectives:

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

Other PHA Goals and Objectives: (list below)

Annual PHA Plan
PHA Fiscal Year 2009
[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 Housing Authority of the County of Monterey (HACM) has made the following progress is meeting the goals in the 5-Year Plan:

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

The Housing Authority has continued to apply for additional Section 8 Housing Choice Vouchers when funding is made available and it has continued to work towards reducing vacancies in its public housing program. The Housing Authority has added 292 units in the County of affordable housing in the past year and continues to review those properties that may need to be redeveloped.

The Housing Authority continues to be a standard performer in public housing (PHAS score 82) and a high performer in the Section 8 Housing Choice Voucher program (SEMAP score 97). Also, HACM continues to manage its Capital Fund Program so that all funds are obligated in a timely manner and work is completed on schedule. HACM has renovated over 25 public housing units in the past year. Finally, HACM has demolished 20 obsolete public housing units and developed 44 replacement units using mixed financing.

Specialists in the Section 8 program continue to educate clients with regards to the portability of their vouchers. Group briefings and individual counseling are used to get information to the clients regarding the program. Landlords are encouraged to participate in the Section 8 program and special briefings for them are also held. Voucher payment standards have been adjusted during the last year in order to reflect the changing market conditions and to increase the number of available units to Section 8 Voucher holders.

Site based waiting lists have been instituted at selected properties in order to broaden the opportunities to rural communities and to reduce the vacancy turnaround time. Project-based Section 8 Vouchers have been made available to new developments in order to increase the supply of affordable housing in the county.

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

The Housing Authority continues to monitor crime statistics and make public housing communities safer through property safety improvements. HACM also monitors the property income levels in order to further deconcentration of poverty and to broaden the income mix of the projects.

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

HACM continues to promote self-sufficiency and asset development by encouraging participants in the Section 8 program to sign up for the Family Self-Sufficiency program. HACM also continues to assist families that are able to become homeowners by utilizing various options including Section 8 Vouchers and working with communities to provide down payment assistance to the clients.

The Housing Authority continues to work with various service providers to better serve those families with special needs including the disabled and elderly populations. In addition, HACM continues to work with local governmental agencies and non-profits to utilize specialized Vouchers such as those for Shelter Plus Care and Family Unification.

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

HACM continues to affirmatively market its housing programs and make them accessible to those families with special needs or disabilities.

HACM continues to utilize its Capital Fund monies to make improvements at the public housing properties so that all families regardless of need can have equal use of the units or property. HACM remains committed to meeting reasonable accommodation or modification requests in order to provide equal opportunities to disabled families or individuals.

Housing Authority of the County of Monterey's 5 Year Strategic Plan

The Housing Authority of the County of Monterey has its own 5-Year Strategic Plan for the years 2005-2009. The goals for this plan are as follows:

1) Provide excellent customer service.
2) Be the lead affordable housing organization in the County.

3) Increase affordable housing opportunities within Monterey County by developing or stimulating development of affordable housing both through in-house development activities and in partnership with or on behalf of others.
4) Ensure long-term financial viability for the agency in light of changes in federal, state and local funding and increased scrutiny of housing programs.
5) Implement overall asset management discipline to ensure long-term physical and financial viability of the assets that are owned, managed or financed by the agency.

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 (ACOP) (Attachment 9)
- ☒ FY 2009 Capital Fund Program Annual Statement (Attachment 1)
- ☐ 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 (Attachment 4)
- ☒ List of Resident Board Member (Attachment 5)
- ☒ Community Service Description of Implementation (ACOP) (Attachment 9)
- ☒ Information on Pet Policy (ACOP) (Attachment 9)
- ☒ Section 8 Homeownership Capacity Statement, if applicable (Attachment 8)
- ☒ Description of Homeownership Programs, if applicable (Attachment 8)

Optional Attachments:

- ☒ PHA Management Organizational Chart (Attachment 3)
- ☒ FY 2009 Capital Fund Program 5 Year Action Plan (Attachment 2)
- ☐ Public Housing Drug Elimination Program (PHDEP) Plan
- ☐ Comments of Resident Advisory Board or Boards (must be attached if not included in PHA Plan text)
- ☒ Other (List below, providing each attachment name):
  Public Housing Development and Replacement Activities (Attachment 6)
  Section 3 Policy (Attachment 7)
  Section 8 Administrative Plan (Attachment 8)
  Preventive Maintenance Plan (Attachment 10)
  Maintenance Work Control Procedures (Attachment 11)
  Fiscal Year 2007 Audit (Attachment 12)

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
	Fair Housing Documentation: Records reflecting that the PHA has examined its programs	5 Year and Annual Plans; Section 8 Admin Plan and

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
X	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.	ACOP (Attachments 8 & 9)
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; Attachment 9
X	Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions Policies; Attachment 8
X	Public Housing Deconcentration and Income Mixing Documentation: 1. PHA board certifications of compliance with deconcentration requirements (section 16(a) of the US Housing Act of 1937, as implemented in the 2/18/*99 Quality Housing and Work Responsibility Act Initial Guidance; Notice* and any further HUD guidance) and 2. Documentation of the required deconcentration and income mixing analysis	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Public housing rent determination policies, including the methodology for setting public housing flat rents ☒ check here if included in the public housing A & O Policy	Annual Plan: Rent Determination
X	Schedule of flat rents offered at each public housing development ☒ check here if included in the public housing A & O Policy	Annual Plan: Rent Determination
X	Section 8 rent determination (payment standard) policies ☒ check here if included in Section 8 Administrative Plan	Annual Plan: Rent Determination
X	Public housing management and maintenance policy documents, including policies for the prevention or eradication of pest infestation (including cockroach infestation)	Annual Plan: Operations and Maintenance; Attachments 10 & 11
X	Public housing grievance procedures ☒ check here if included in the public housing A & O Policy	Annual Plan: Grievance Procedures

List of Supporting Documents Available for Review		
Applicable & On Display	**Supporting Document**	**Applicable Plan Component**
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; Attachment 1
N/A	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grant	Annual Plan: Capital Needs
X	Most recent, approved 5 Year Action Plan for the Capital Fund/Comprehensive Grant Program, if not included as an attachment (provided at PHA option)	Annual Plan: Capital Needs; Attachment 2
N/A	Approved HOPE VI applications or, if more recent, approved or submitted HOPE VI Revitalization Plans or any other approved proposal for development of public housing	Annual Plan: Capital Needs
X	Approved or submitted applications for demolition and/or disposition of public housing	Annual Plan: Demolition and Disposition; Attachment 6
N/A	Approved or submitted applications for designation of public housing (Designated Housing Plans)	Annual Plan: Designation of Public Housing
N/A	Approved or submitted assessments of reasonable revitalization of public housing and approved or submitted conversion plans prepared pursuant to section 202 of the 1996 HUD Appropriations Act	Annual Plan: Conversion of Public Housing
N/A	Approved or submitted public housing homeownership programs/plans	Annual Plan: Homeownership
X	Policies governing any Section 8 Homeownership program ☒ check here if included in the Section 8 Administrative Plan	Annual Plan: Homeownership
	Any cooperative agreement between the PHA and the TANF agency	Annual Plan: Community Service & Self-Sufficiency
X	FSS Action Plan/s for public housing and/or Section 8	Annual Plan: Community Service & Self-Sufficiency
N/A	Most recent self-sufficiency (ED/SS, TOP or ROSS or other resident services grant) grant program reports	Annual Plan: Community Service & Self-Sufficiency
N/A	The most recent Public Housing Drug Elimination Program (PHEDEP) semi-annual performance report for any open grant and most recently submitted PHDEP application (PHDEP Plan)	Annual Plan: Safety and Crime Prevention
X	The most recent fiscal year audit of the PHA conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U. S.C. 1437c(h)), the results of that audit and the PHA's response to any findings	Annual Plan: Annual Audit; Attachment 12
	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	16,689	5	5	5	4	5	4
Income >30% but <=50% of AMI	18,955	5	5	4	4	5	4
Income >50% but <80% of AMI	17,734	5	4	4	4	4	4
Elderly	40,769	5	4	4	5	4	4
Families with Disabilities	52,979	5	5	5	5	5	5
Race/Ethnicity White/Non-Hispanic	146,828	5	5	4	3	3	3
Race/Ethnicity Hispanic	209,650	5	5	4	3	5	5
Race/Ethnicity African American	13,269	5	5	4	3	4	4
Race/Ethnicity Asian/Pacific Islanders	28,290	5	5	4	3	4	4
Race/Ethnicity Other & Mixed	108,246	5	5	4	3	4	4

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

☒ Consolidated Plan of the Jurisdiction/s
Indicate year: 2006-2010 City of Salinas and 2008 Progress Report

☐ 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)U.S. Census Bureau Data 2007 update; Housing Elements for Cities of Seaside(2003) and Monterey(2005) and County of Monterey(2008)

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	5498		
Extremely low income <=30% AMI	3581	65 %	
Very low income (>30% but <=50% AMI)	1544	28%	
Low income (>50% but <80% AMI)	352	7%	
Families with children	3431	62%	
Elderly families	511	9%	
Families with Disabilities	952	17%	
Race/ethnicity: White	4512	81%	
Race/ethnicity: Black	482	9%	
Race/ethnicity: Asian	126	3%	

Housing Needs of Families on the Waiting List			
Race/ethnicity: Native Hawaiian	51	1%	
Race/ethnicity: American Indian	83	2%	
Race/ethnicity: Multiple Races	73	1%	
Race/ethnicity: Race Unknown	171	3%	
Race/ethnicity: Hispanic	3714	68%	
Race/ethnicity: Not Hispanic	1666	30%	
Race/ethnicity: Unknown	118	2%	
Characteristics by Bedroom Size (Public Housing Only)			
1BR			
2 BR			
3 BR			
4 BR			
5 BR			
5+ BR			

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

If yes:

How long has it been closed (# of months)? 4 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	4737		
Extremely low income <=30% AMI	3299	70%	
Very low income (>30% but <=50% AMI)	1093	23%	
Low income (>50% but <80% AMI)	345	7%	
Families with children	3024	64%	
Elderly families	331	7%	
Families with Disabilities	656	14%	
Race/ethnicity: White	3765	79%	
Race/ethnicity: Black	381	8%	
Race/ethnicity: Asian	89	2%	
Race/ethnicity: Native Hawaiian	46	1%	
Race/ethnicity: American Indian	73	2%	
Race/ethnicity: Multiple Races	74	2%	
Race/ethnicity: Race Unknown	309	6%	
Race/ethnicity: Hispanic	3172	67%	
Race/ethnicity: Not Hispanic	1422	30%	
Race/ethnicity: Unknown	148	3%	

Housing Needs of Families on the Waiting List			
Characteristics by Bedroom Size (Public Housing Only)			
1BR	1376	29%	25
2 BR	1911	40%	45
3 BR	1223	26%	25
4 BR	201	4%	10
5 BR	21	1%	1
5+ BR	5	0%	0

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

If yes:

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

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

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

C. Strategy for Addressing Needs

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

(1) Strategies

Need: Shortage of affordable housing for all eligible populations

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

Select all that apply

- ☒ Employ effective maintenance and management policies to minimize the number of public housing units off-line
- ☒ Reduce turnover time for vacated public housing units
- ☒ Reduce time to renovate public housing units
- ☒ Seek replacement of public housing units lost to the inventory through mixed finance development
- ☒ Seek replacement of public housing units lost to the inventory through section 8 replacement housing resources
- ☒ Maintain or increase section 8 lease-up rates by establishing payment standards that will enable families to rent throughout the jurisdiction
- ☒ Undertake measures to ensure access to affordable housing among families assisted by the PHA, regardless of unit size required

- ☒ Maintain or increase section 8 lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration
- ☒ Maintain or increase section 8 lease-up rates by effectively screening Section 8 applicants to increase owner acceptance of program
- ☒ Participate in the Consolidated Plan development process to ensure coordination with broader community strategies
- ☒ Other (list below)
  "Develop and maintain collaborative partnerships with other agencies to maximize funding opportunities for affordable housing developments."
  "Apply for grants under HUD's superNOFA and lease-up available allocations to 100%"

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

- ☒ Apply for additional section 8 units should they become available
- ☒ Leverage affordable housing resources in the community through the creation of mixed - finance housing
- ☒ Pursue housing resources other than public housing or Section 8 tenant-based assistance.
- ☒ Other: (list below)
  "Access other governmental funding such as HOME and SHP in cooperation with CHDOs in the effort to develop more affordable housing."

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

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

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

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

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

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

Need: Specific Family Types: The Elderly

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

- ☐ Seek designation of public housing for the elderly
- ☒ Apply for special-purpose vouchers targeted to the elderly, should they become available
- ☒ Other: (list below)
  "Work in conjunction with the local jurisdictions to create additional elderly housing."

Need: Specific Family Types: Families with Disabilities

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

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

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

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

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

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

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

"Provide counseling on mobility and portability."

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)
  "Use of waiting list data, consultation with the Coalition of Homeless Services Providers and other non-profits."

2. Statement of Financial Resources

[24 CFR Part 903.7 9 (b)]

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

Financial Resources: Planned Sources and Uses		
Sources	**Planned $**	**Planned Uses**
1. **Federal Grants (FY 2005 grants)**		
a) Public Housing Operating Fund	514,050.00	PH Operations
b) Public Housing Capital Fund	1,546,540.00	PH Capital Improvements
c) HOPE VI Revitalization	0.00	
d) HOPE VI Demolition	0.00	
e) Annual Contributions for Section 8 Tenant-Based Assistance	31,259,050.00	Section 8 HAP and administrative fees

Financial Resources: Planned Sources and Uses		
Sources	**Planned $**	**Planned Uses**
f) Public Housing Drug Elimination Program (including any Technical Assistance funds)	0.00	
g) Resident Opportunity and Self-Sufficiency Grants	0.00	
h) Community Development Block Grant	0.00	
i) HOME	0.00	
Other Federal Grants (list below)		
Supportive Housing Program	367,870.00	Supportive Services and Operations
USDA Rural Development Rental Assistance	126,550.00	Rental Operations
2. Prior Year Federal Grants (unobligated funds only) (list below)	0.00	
3. Public Housing Dwelling Rental Income	2,739,570.00	PH Operations
4. Other income (list below)		
4. Non-federal sources (list below)		
CHFA Rental Assistance	315,196.00	Rental Operations
Office of Migrant Services	368,690.00	Migrant Operations
RHCP Annuity	55,060.00	Rental Operations
Other Rental and Tenant Income	1,638,464.00	Rental Operations
Other Grants	0.00	
Other Income	1,570,288.00	Operations
Management Fees	770,890.00	Operations
Interest Income	573,610.00	Operations
Total resources	41,845,828.00	

3. PHA Policies Governing Eligibility, Selection, and Admissions

[24 CFR Part 903.7 9 (c)]

A. Public Housing

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

(1) Eligibility

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

- ☒ When families are within a certain number of being offered a unit: (state number) Top 50 families
- ☒ When families are within a certain time of being offered a unit: (state time) 90 days
- ☐ Other: (describe)

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

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

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

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

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

(2)Waiting List Organization

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

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

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

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

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

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

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

3. ☒ Yes ☐ No: May families be on more than one list simultaneously
   If yes, how many lists? 6

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)

"If an adult member is enrolled in a specialized training program in another jurisdiction or to move to another jurisdiction in order to be employed."

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 disasters
- ☐ Other preference(s) (list below)

3. If the PHA will employ admissions preferences, please prioritize by placing a "1" in the space that represents your first priority, a "2" in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either

through an absolute hierarchy or through a point system), place the same number next to each. That means you can use "1" more than once, "2" more than once, etc.

1 Date and Time

Former Federal preferences:

3 Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
Victims of domestic violence

4 Substandard housing
Homelessness
High rent burden

Other preferences (select all that apply)

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

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

4. Relationship of preferences to income targeting requirements:

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

(5) Occupancy

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

- ☒ The PHA-resident lease

☒ The PHA's Admissions and (Continued) Occupancy policy
☒ PHA briefing seminars or written materials
☒ Other source (list)
Initial Eligibility orientation, Resident Handbook and leasing orientation as well as continued counseling of housed residents by the manager of the policies and regulations governing the program.

b. How often must residents notify the PHA of changes in family composition? (select all that apply)
☒ At an annual reexamination and lease renewal
☒ Any time family composition changes
☒ At family request for revision
☐ Other (list)

(6) Deconcentration and Income Mixing

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

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

c. If the answer to b was yes, what changes were adopted? (select all that apply)
☐ Adoption of site-based waiting lists
If selected, list targeted developments below:

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

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

☐ Other (list policies and developments targeted below)

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

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

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

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

- ☐ Not applicable: results of analysis did not indicate a need for such efforts
- ☒ List (any applicable) developments below: AMP CA033000108

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: AMP CA033000103
  AMP CA033000119

B. Section 8

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

(1) Eligibility

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

- ☒ Criminal or drug-related activity only to the extent required by law or regulation
- ☐ Criminal and drug-related activity, more extensively than required by law or regulation
- ☐ More general screening than criminal and drug-related activity (list factors below)
- ☐ Other (list below)

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

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

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

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

☒ Criminal or drug-related activity
☒ Other (describe below)
"Eviction history and damage to rental property."

(2) Waiting List Organization

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

☐ None
☐ Federal public housing
☒ Federal moderate rehabilitation
☐ Federal project-based certificate program
☐ Other federal or local program (list below)

b. Where may interested persons apply for admission to section 8 tenant-based assistance? (select all that apply)

☒ PHA main administrative office
☒ Other (list below)
"Central Coast Center for Independent Living, San Andreas Regional Center, Department of Social and Employment Services, John XXIII Aids Ministry, and City Hall of cities in the jurisdiction of the County."

(3) Search Time

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

If yes, state circumstances below:
"Voucher issued for 60 days can be extended up to 120 days and up to 150 days for persons with disabilities."

(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)

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

1 Date and Time

Former Federal preferences

Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
2 Victims of domestic violence
Substandard housing
Homelessness

High rent burden

Other preferences (select all that apply)

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

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

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

5. If the PHA plans to employ preferences for "residents who live and/or work in the jurisdiction" (select one)

- ☒ This preference has previously been reviewed and approved by HUD
- ☐ The PHA requests approval for this preference through this PHA Plan

6. Relationship of preferences to income targeting requirements: (select one)

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

(5) Special Purpose Section 8 Assistance Programs

a. In which documents or other reference materials are the policies governing eligibility, selection, and admissions to any special-purpose section 8 program administered by the PHA contained? (select all that apply)

- ☒ The Section 8 Administrative Plan
- ☒ Briefing sessions and written materials
- ☒ Other (list below)
  "The Family Handbook and Briefing Packet"

b. How does the PHA announce the availability of any special-purpose section 8 programs to the public?

☒ Through published notices
☒ Other (list below)
"Public advertising in the news media, announcement on agency web site, mailing of informational packets to all service providers within the County, local television and radio announcements."

4. PHA Rent Determination Policies

[24 CFR Part 903.7 9 (d)]

A. Public Housing

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

(1) Income Based Rent Policies

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

a. Use of discretionary policies: (select one)

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

---or---

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

b. Minimum Rent

1. What amount best reflects the PHA's minimum rent? (select one)
☐ $0
☐ $1-$25
☒ $26-$50

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

3. If yes to question 2, list these policies below:

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

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

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

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

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

☐ Fixed percentage (other than general rent-setting policy)
If yes, state percentage/s and circumstances below:

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

e. Ceiling rents

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

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

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

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

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

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

f. Rent re-determinations:

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

- ☐ Never
- ☐ At family option
- ☒ Any time the family experiences an income increase
- ☐ Any time a family experiences an income increase above a threshold amount or percentage: (if selected, specify threshold)_____
- ☒ Other (list below)

"Families are required to report any change in family composition or income within 10 days of the occurrence."

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

(2) Flat Rents

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

- ☐ The section 8 rent reasonableness study of comparable housing
- ☐ Survey of rents listed in local newspaper
- ☐ Survey of similar unassisted units in the neighborhood
- ☒ Other (list/describe below)

"Fair Market Rents for the Section 8 Housing Choice Voucher Program"

B. Section 8 Tenant-Based Assistance

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

(1) Payment Standards

Describe the voucher payment standards and policies.

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

- ☐ At or above 90% but below100% of FMR
- ☒ 100% of FMR
- ☒ Above 100% but at or below 110% of FMR Peninsula Cities
- ☐ 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.
(select one)
☒ An organization chart showing the PHA's management structure and organization is attached. (Attachment 3)
☐ 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	595	110
Section 8 Vouchers	3701	400
Section 8 Certificates		
Section 8 Mod Rehab	29	5
Special Purpose Section 8 Certificates/Vouchers (list individually)	Shelter Plus Care – 14 Enhanced Vouchers –39 S8 Homeownership- 4 S8 Project Based - 261	
Public Housing Drug Elimination Program		

(PHDEP)	N/A	
Other Federal Programs(list individually):		
Supportive Housing Program	56	26
USDA Rural Development Farm Labor Housing	134	13

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)

Public Housing Admissions and Continued Occupancy Plan (ACOP) (Attachment 9)
Resident Handbook
Public Housing Lease
Preventive Maintenance Plan (Attachment 10)
Maintenance Plan (Attachment 11)

(2) Section 8 Management: (list below)

Section 8 Administrative Plan (Attachment 8)

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 (Attachment 1)

-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 (Attachment 2)

-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:

☒ 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:

Please see Attachment 6 for detailed explanation of mixed-finance development activities.

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

Please see Attachment 6 for detailed explanation of mixed-finance development activities.

8. Demolition and Disposition

[24 CFR Part 903.7 9 (h)]

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

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

2. Activity Description

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

Demolition/Disposition Activity Description
1a. Development name: **Laguna Haciendas** 1b. Development (project) number: **AMP CA033000101**
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: by 3-31-09
5. Number of units affected: 100 units plus office building 6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: 10-1-09 b. Projected end date of activity: 10-1-09
1a. Development name: **Casa de Oro** 1b. Development (project) number: **AMP CA033000105**
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: by 3-31-09
5. Number of units affected: 20 6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: b. Projected end date of activity: 8-2009
1a. Development name: **Los Ositos** 1b. Development (project) number: **AMP CA033000112**
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: by 3-31-09
5. Number of units affected: 50 6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: b. Projected end date of activity: 8-2009
1a. Development name: **Scattered Sites** 1b. Development (project) number: **AMP CA033000117**

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: 5-16-08
5. Number of units affected: 3 6. Coverage of action (select one) ☒ Part of the development ☐ Total development
7. Timeline for activity: a. Actual or projected start date of activity: b. Projected end date of activity: 6-30-09 1a. Development name: **Scattered Sites** 1b. Development (project) number: **AMP CA033000118**
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: 5-16-08
5. Number of units affected: 6 6. Coverage of action (select one) ☒ Part of the development ☐ Total development
7. Timeline for activity: a. Actual or projected start date of activity: b. Projected end date of activity: 6-30-09

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

[24 CFR Part 903.7 9 (i)]

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

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

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

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

10. Conversion of Public Housing to Tenant-Based Assistance

[24 CFR Part 903.7 9 (j)]

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

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

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

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

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

(date submitted or approved:)

☐ Requirements no longer applicable: vacancy rates are less than 10 percent

☐ Requirements no longer applicable: site now has less than 300 units

☐ Other: (describe below)

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

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

11. Homeownership Programs Administered by the PHA

[24 CFR Part 903.7 9 (k)]

A. Public Housing

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

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

2. Activity Description

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

Public Housing Homeownership Activity Description (Complete one for each development affected)
1a. Development name: 1b. Development (project) number:
2. Federal Program authority:

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

B. Section 8 Tenant Based Assistance

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

2. Program Description:

a. Size of Program

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

If the answer to the question above was yes, which statement best describes the number of participants? (select one)

☐ 25 or fewer participants
☐ 26 - 50 participants
☐ 51 to 100 participants
☐ more than 100 participants

b. PHA-established eligibility criteria

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

12. PHA Community Service and Self-sufficiency Programs

[24 CFR Part 903.7 9 (l)]

Exemptions from Component 12: High performing and small PHAs are not required to complete this component. Section 8-Only PHAs are not required to complete sub-component C.

A. PHA Coordination with the Welfare (TANF) Agency

1. Cooperative agreements:

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

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

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

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

B. Services and programs offered to residents and participants

(1) General

a. Self-Sufficiency Policies

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

☐ Public housing rent determination policies
☒ Public housing admissions policies
☐ Section 8 admissions policies
☐ Preference in admission to section 8 for certain public housing families
☒ Preferences for families working or engaging in training or education programs for non-housing programs operated or coordinated by the PHA

☐ Preference/eligibility for public housing homeownership option participation
☐ Preference/eligibility for section 8 homeownership option participation
☐ Other policies (list below)

b. Economic and Social self-sufficiency programs

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

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

(2) Family Self Sufficiency program/s

a. Participation Description

Family Self Sufficiency (FSS) Participation		
Program	Required Number of Participants (start of FY 2009 Estimate)	Actual Number of Participants (As of: 03/31/09)
Public Housing	0	0
Section 8	200	133

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

Community Service Policy is in Chapter 11 of the Public Housing Admissions and Continued Occupancy Policy. (Attachment 9)

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)
AMP CA033000101
AMP CA033000108
AMP CA033000120

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)
Increased police patrols of neighborhood and properties. Sharing of information with local police to rid properties of criminal element and drug activity. Eviction of families involved in criminal/drug-related activities.

2. Which developments are most affected? (list below)
AMP CA033000101
AMP CA033000108
AMP CA033000120

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)

AMP CA033000101
AMP CA033000107
AMP CA033000108
AMP CA033000114
AMP CA033000119
AMP CA033000120

D. Additional information as required by PHDEP/PHDEP Plan

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

☐ Yes ☐ No: Is the PHA eligible to participate in the PHDEP in the fiscal year covered by this PHA Plan?

☐ Yes ☐ No: Has the PHA included the PHDEP Plan for FY 2005 in this PHA Plan?

☐ Yes ☐ No: This PHDEP Plan is an Attachment. (Attachment Filename: ___)

14. RESERVED FOR PET POLICY

[24 CFR Part 903.7 9 (n)]

Pet policy is located in Chapter 10 of the Public Housing Admissions and Continued Occupancy Plan. (Attachment 9)

15. Civil Rights Certifications

[24 CFR Part 903.7 9 (o)]

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

16. Fiscal Audit

[24 CFR Part 903.7 9 (p)]

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

17. PHA Asset Management

[24 CFR Part 903.7 9 (q)]

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

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

2. What types of asset management activities will the PHA undertake? (select all that apply)

☐ Not applicable
☐ Private management
☒ Development-based accounting
☒ Comprehensive stock assessment
☐ Other: (list below)

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

18. Other Information

[24 CFR Part 903.7 9 (r)]

A. Resident Advisory Board Recommendations

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

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

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: **City of Salinas**

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)
Assists and supports the sale of public housing single family dwellings to low income residents. Continued support for applications for additional Section 8 Housing Choice Vouchers. Supports the redevelopment of underperforming public housing properties in order to retain affordable housing in the community.

1. Consolidated Plan jurisdiction: **City of Monterey**

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)
Continued support of HACM development of affordable housing in the jurisdiction and support for Section 8 Housing Choice Voucher applications.

1. Consolidated Plan jurisdiction: **City of Seaside**

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)
Continued support for the Section 8 Housing Choice Voucher program and support for new applications for additional vouchers. Support for Section 8 Homeownership program through down payment assistance and deferred loans to owners who rehab rental units and lease them to Section 8 voucher holders. Assist HACM in preserving affordable housing that it reaching the end of the affordability period.

1. Consolidated Plan jurisdiction: **County of Monterey**

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)
   Continue to support efforts to preserve and develop affordable housing for low income families and special needs populations. Continue to support rehab of affordable units. Continue to financially support development of affordable housing units in the County.

D. Other Information Required by HUD

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

1. Violence Against Women Act (VAWA)

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

For Section 8, with all new leases and at annual recertification, an information memo is attached to the copies of the client's paperwork and the following paragraph is added on VAWA.

HACM has amended its Section 8 Administrative Plan and its Public Housing Admissions and Continued Occupancy Plan in accordance with VAWA requirements.

The policies regarding the Violence Against Women Act are located in Chapters 13 and 16 of the Public Housing Admissions and Continued Occupancy Plan.

The policies regarding the Violence Against Women Act for the Section 8 Program are located in Chapters 3, 9, and 10 of the Section 8 Administrative Plan.

RESOLUTION 2589

PHA CERTIFICATION OF COMPLIANCE WITH THE PHA PLANS AND RELATED REGULATIONS (2009)

WHEREAS, the Housing Authority of the County of Monterey certified that the Annual Plan is consistent with the applicable comprehensive housing affordability strategy of all the entitlement cities and County of Monterey in which the PHA is located; and

WHEREAS, the Housing Authority of the County of Monterey certified that it complied with and incorporated all the requirements of the Department of Housing and Urban Development into the Agency Annual Plan; and

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners hereby authorizes the Executive Director to submit the plan to the U.S. Department of Housing and Urban Development and to execute any and all documents to implement said plan.

Alan Styles
Chairman

ATTEST:

Secretary

03/30/09
Date

PASSED AND ADOPTED this 30th day of March 2009, upon motion of Williams, seconded by Bilek and carried by the following vote-to-wit:

AYES: Styles, Williams, Stewart, Dalessio, Bilek
NOES: None
ABSENT: Gin

Attachment #1

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of Monterey	Capital Fund Program Grant No: CA39PO335601-09 Replacement Housing Factor Grant No: Date of CFFP: _____	2010 **FFY of Grant Approval:** 2009

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

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]	0			
3	1408 Management Improvements	294,439			
4	1410 Administration (may not exceed 10% of line 21)	147,220			
5	1411 Audit	0			
6	1415 Liquidated Damages	0			
7	1430 Fees and Costs	0			
8	1440 Site Acquisition	0			
9	1450 Site Improvement	0			
10	1460 Dwelling Structures	889,537			
11	1465.1 Dwelling Equipment—Nonexpendable	0			
12	1470 Non-dwelling Structures	0			
13	1475 Non-dwelling Equipment	66,000			
14	1485 Demolition	0			
15	1492 Moving to Work Demonstration	0			
16	1495.1 Relocation Costs	0			
17	1499 Development Activities [4]	0			
18a	1501 Collateralization or Debt Service paid by the PHA	0			
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment	0			
19	1502 Contingency (may not exceed 8% of line 20)	75,000			
20	Amount of Annual Grant: (sum of lines 2 – 19)	1,472,196			
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	Grant Type and Number	FFY of Grant:
Housing Authority of the County of Monterey	Capital Fund Program Grant No: CA39PO33501-09 Replacement Housing Factor Grant No: Date of CFFP: _____	2010 **FFY of Grant Approval:** 2009

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

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
	Signature of Executive Director	**Date** 1/27/09	**Signature of Public Housing Director**		**Date**

Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey	**Grant Type and Number** Capital Fund Program Grant No: CA39PO33501-09 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2010

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
CA033000107	Architectural Studies	1430						
Ocenaview Apts.	Site Improvements	1450						
	Dwelling Improvements	1460	19 units	834,537				
	Appliances	1465.2						
	Non-Dwelling Improvements	1470						
CA033-all	Administration	1410		147,220				
	Overall Site Improvements	1450						
	Overall Dwelling Improvements	1460		55,000				
	Non-Dwelling Equipment	1475		66,000				
	Management Improvements	1408		294,439				
	Contingency	1502		75,000				

[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.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey	**Grant Type and Number** Capital Fund Program Grant No: CA39PO33501-09 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2010

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	

[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.

Part III: Implementation Schedule for Capital Fund Financing Program

PHA Name: Housing Authority of the County of Monterey					Federal FFY of Grant: 2010
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	Grant Type and Number	FFY of Grant:
Housing Authority of the County of Monterey	Capital Fund Program Grant No: CA39S03351-09 Replacement Housing Factor Grant No: Date of CFFP: _____	2009 (ARRA) **FFY of Grant Approval:** 2009 (ARRA)

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

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)	161,726			
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures	1,382,000			
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	73,535			
20	Amount of Annual Grant: (sum of lines 2 – 19)	1,617,261			
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	Grant Type and Number	FFY of Grant:
Housing Authority of the County of Monterey	Capital Fund Program Grant No: CA39SO33501-09 Replacement Housing Factor Grant No: Date of CFFP: _____	2009 (ARRA) **FFY of Grant Approval:** 2009 (ARRA)

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

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date
	03/30/09		

Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey	**Grant Type and Number** Capital Fund Program Grant No: CA39SO33501-09 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2009 (ARRA)

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
CA033000108	Dwelling Structures	1460	all units	175,500				
1415 Del Monte								
CA033000110								
1011 E. Laurel	Dwelling Structures	1460	all units	49,500				
1029 Rider Ave	Dwelling Structures	1460	all units	66,000				
1112 Alamo Way	Dwelling Structures	1460	all units	49,500				
CA033000111								
541 Watson St	Dwelling Structures	1460	all units	43,000				
242 Montecito	Dwelling Structures	1460	all units	43,000				
CA033000112								
Los Ositos	Dwelling Structures	1460	all units	429,000				
CA033000120								
1259 Del Monte	Dwelling Structures	1460	all units	99,000				
1113 D St	Dwelling Structures	1460	all units	16,500				
24 N. Wood St	Dwelling Structures	1460	all units	16,500				
18861 Hoover	Dwelling Structures	1460	all units	16,500				
775 Elkingon	Dwelling Structures	1460	all units	5,000				
780 Elkington	Dwelling Structures	1460	all units	5,000				
1012 N. Sanborn	Dwelling Structures	1460	all units	33,000				

[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.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of Monterey	**Grant Type and Number** Capital Fund Program Grant No: CA39SO33501-09 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2009 (ARRA)

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
CA033000119	Dwelling Structures	1460	all units	110,000				
El-Gin Village								
CA033-all	Administration	1410		161,726				
	Overall Dwelling Improvements	1460		225,000				
	Contingency	1502		73,535				

[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.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Attachment #2

Part I: Summary

PHA Name/Number Housing Authority of Monterey County CA033			Locality (City/County & State) Monterey County, CA		☐**Original 5-Year Plan** ☒**Revision No: 3**	
A.	Development Number and Name	Work Statement for Year 1 FFY 2010 PHA FY 2009	Work Statement for Year 2 FFY 2011 PHA FY 2010	Work Statement for Year 3 FFY 2012 PHA FY 2011	Work Statement for Year 4 FFY 2013 PHA FY 2012	Work Statement for Year 5 FFY 2014 PHA FY 2013
B.	Physical Improvements Subtotal	Annual Statement	966,306	1,169,230	1,286,153	1,479,076
C.	Management Improvements		314,116	375,897	413,487	473,209
D.	PHA-Wide Non-dwelling Structures and Equipment		133,100	146,410	161,051	177,156
E.	Administration		157,058	187,949	206,743	236,605
F.	Other					
G.	Operations					
H.	Demolition					
I.	Development					
J.	Capital Fund Financing – Debt Service					
K.	Total CFP Funds					
L.	Total Non-CFP Funds					
M.	Grand Total		1,570,580	1,879,486	2,067,435	2,366,046

Part I: Summary (Continuation)

PHA Name/Number Housing Authority of the County of Monterey CA033			Locality (City/county & State) Monterey County, CA		☐Original 5-Year Plan ☐Revision No: 3	
A.	Development Number and Name	Work Statement for Year 1 FFY 2010 PHA FY 2009	Work Statement for Year 2 FFY 2011 PHA FY 2010	Work Statement for Year 3 FFY 2012 PHA FY 2011	Work Statement for Year 4 FFY 2013 PHA FY 2012	Work Statement for Year 5 FFY 2014 PHA FY 2013
	CA033000105 Casa de Oro (20 units)	Annual Statement	966,306			
	CA033000119 El-Gin Village (50units)			265,734	1,286,153	1,479,076
	CA033000120 1259 Del Monte(17 units)			903,496		
	Physical Dwelling Improvements Subtotal		966,306	1,169,230	1,286,153	1,479,076
	Management Improvements		314,116	375,897	413,487	473,209
	HA-wide Non-dwelling Structures & Equipment		133,100	146,410	161,051	177,1156
	Administration		157,058	187,949	206,743	236,605
	Total	-	1,570,580	1,879,486	2,067,435	2,366,046

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY 2010	Work Statement for Year 2 FFY 2011			Work Statement for Year: 3 FFY 2012		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
See	CA033000105 Casa de Oro Units 1-20	20 units	966,306	CA033000120 1259 Del Monte Avenue Units 1-17	17 units	903,496
Annual				CA033000119 El-Gin Village Units 1-50	5 units	265,734
Statement						
	Subtotal of Estimated Cost		$ 966,306	Subtotal of Estimated Cost		$ 1,169,230

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY 2010	Work Statement for Year 4 FFY 2013			Work Statement for Year: 5 FFY 2014		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
See	CA033000119 El-Gin Village Units 1-50	22 units	1,286,153	CA033000119 El-Gin Village Units 1-50	23 units	1,479,076
Annual						
Statement						
	Subtotal of Estimated Cost		$1,286,153	Subtotal of Estimated Cost		$1,479,076

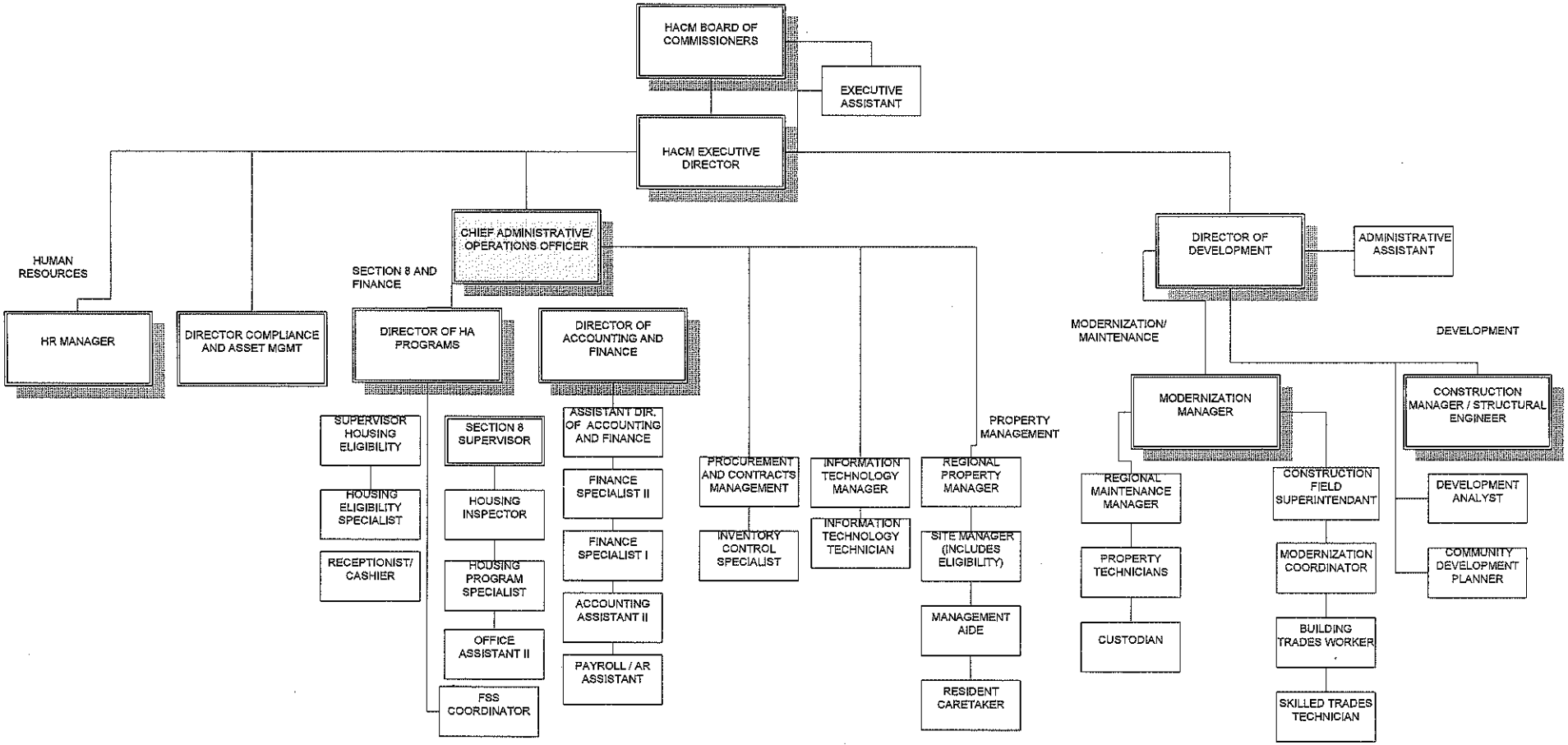
Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY 2010	Work Statement for Year 2 FFY2011		Work Statement for Year: 3 FFY 2012	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
See	Management Improvements	314,116	Management Improvements	375,897
Annual	HA-wide Non-dwelling Structures & Equipment	133,100	HA-wide Non-dwelling Structures & Equipment	146,410
Statement	Administration	157,058	Administration	187,949
	Subtotal of Estimated Cost	$604,274	Subtotal of Estimated Cost	$710,256

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY 2010	Work Statement for Year 4 FFY 2013		Work Statement for Year: 5 FFY 2014	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
See	Management Improvements	413,487	Management Improvements	473,209
Annual	HA-wide Non-dwelling Structures & Equipment	161.051	HA-wide Non-dwelling Structures & Equipment	177,156
Statement	Administration	206,743	Administration	236,605
	Subtotal of Estimated Cost	$781,282	Subtotal of Estimated Cost	$886,970

Attachment #3



ORGANIZATIONAL CHART
NOVEMBER 26, 2008 REV-A

Attachment 4

Membership of the Resident Advisory Board

Manuel Camacho
Merri Bilek
Sonia Castro
Sara Robledo
Richard Rangel

Attachment 5

Resident Membership of the HACM Governing Board

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

Attachment 6

PUBLIC HOUSING DEVELOPMENT AND REPLACEMENT ACTIVITIES

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

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

Public Housing Development and Replacement Activities Matrix

Project #	Type of Housing Units	Type of Dwelling	# of Units	Address	Location	Mixed Financing Proposed?	Planned Action	Status of Planned Action
33-1	Family/ Office Building	Garden Apts. / 1 Office Building	100 plus 1 Office Building at 134 E. Rossi	Calle Cebu, Hacienda & E. Rossi Streets	Salinas, CA	Yes	Disposition	Submission of application planned for 1st qtr 2009
33-5	Senior	Garden Apts.	20	48 "C" Street	Gonzales, CA	Yes	Disposition	Submission of application planned for 1st qtr 2009
33-12	Senior	Garden Apts.	50	1083 Elm Avenue	Greenfield, CA	Yes	Disposition	Submission of application planned for 1st qtr 2009
33-17	Family – Scattered Sites	Single Family	1	514 E. Alvin	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-17	Family – Scattered Sites	Single Family	1	1569 Colusa	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-17	Family – Scattered Sites	Single Family	1	13073 Arthur	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-18	Family – Scattered Sites	Single Family	1	1744 Cherokee	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-18	Family – Scattered Sites	Single Family	1	18320 Van Buren	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-18	Family – Scattered Sites	Single Family	1	1073 Sherman	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-18	Family – Scattered Sites	Single Family	1	1346 Las Cruces	Salinas, CA	Yes	Disposition	Application approved but not fully

Public Housing Development and Replacement Activities Matrix (cont.)

								completed
33-18	Family – Scattered Sites	Single Family	1	1348 Las Cruces	Salinas, CA	Yes	Disposition	Application approved but not fully completed
33-18	Family – Scattered Sites	Single Family	1	18861 Hoover	Salinas, CA	Yes	Disposition	Application approved but not fully completed

Attachment 7

Housing Authority of the County of Monterey

Section 3 Policy

PURPOSE:

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

POLICY:

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

DEFINITIONS:

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

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

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

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

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

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

SECTION 3 QUALIFIED CONTRACTS:

Section 3 qualified contracts will contain:

1. HUD 5370 General Conditions for contract for Construction, which contains the necessary clause for Section 3.
2. The HACM Section 3 Rider form will be included in the bid packet to be completed by the bidding contractor/subcontractor or its agents.
3. Minimum HUD assistance for a contract to qualify under Section 3 must exceed $200,000.00.
4. It is the sole responsibility of the contractors, subcontractors and or its agents bidding and/or awarded Section 3 contracts, to comply with Title 24, Chapter 1, Part 135 Equal Opportunities for Low and Very Low Income Persons, when stating Section 3 qualifications for contract. This includes all forms, disclosures and complying with all reporting requirements.

IMPLEMENTATION:

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

Employment and Training:

1. HACM will post notices of job opportunities in media where Section 3 qualified residents customarily search for job announcements.
2. HACM will notify residents and Section 8 clients of Housing Authority job openings in the lobby of the main office and through the agency web site.

Contracting:

HACM shall include in each contract the Section 3 clause:

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

2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
7. With respect to work performed in connection with section 3-covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provision of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Attachment #8

Housing Choice Voucher Administrative Plan

Introduction

ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

AUTHORITIES IN THE MODEL ADMINISTRATIVE PLAN

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

HUD

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

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

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

State Law

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

Industry Practice

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

RESOURCES CITED IN THE MODEL ADMINISTRATIVE PLAN

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

Abbreviations

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

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

Resources and Where to Find Them

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

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

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

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

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

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

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

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

There are three parts to this chapter:

Part I: The Housing Authority of the County of Monterey (HACM) This part includes a description of the HACM, its jurisdiction, its programs, and its mission and intent.

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

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

PART I: THE HACM

1-I.A. OVERVIEW

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

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

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

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

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

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

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

1-I.C. HACM MISSION

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

The HACM's mission statement is:

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

1-I.D. THE HACM'S PROGRAMS

The following programs are included under this administrative plan:

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

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

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

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

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

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

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

1-II.B. HCV PROGRAM BASICS

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

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

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

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

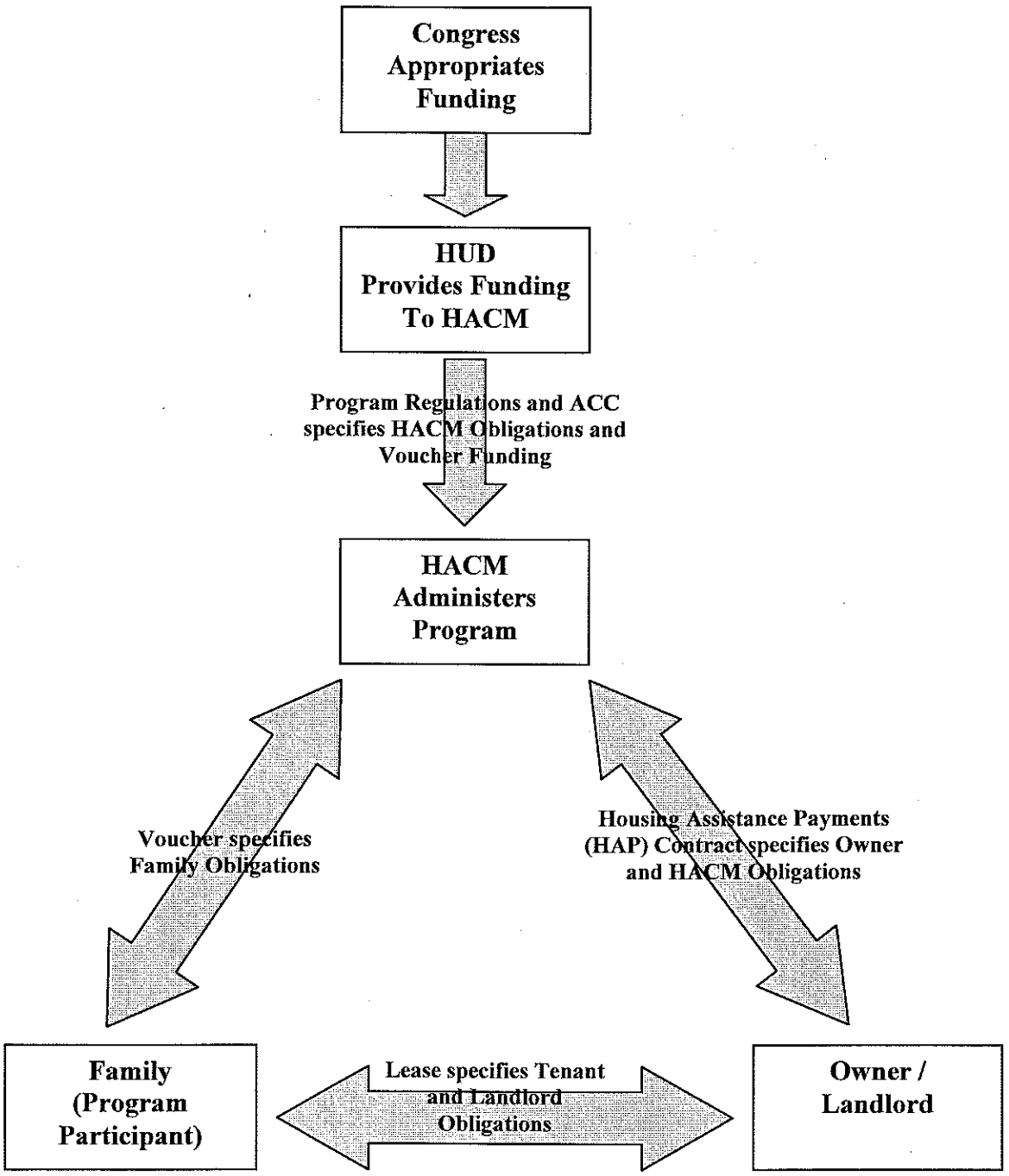
1-II.C. THE HCV PARTNERSHIPS

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

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

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

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

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

What does the HACM do?

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

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

What does the Owner do?

The owner has the following major responsibilities:

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

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

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

What does the Family do?

The family has the following responsibilities:

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

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III. THE HCV ADMINISTRATIVE PLAN

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

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

This administrative plan is set forth to define the HACM's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document, are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

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

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

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

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

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

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

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

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

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

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

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

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

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

2-I.B. NONDISCRIMINATION

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

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

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

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

The HACM will not use any of these factors to:

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

Providing Information to Families and Owners

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

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

Discrimination Complaints

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

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

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

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

PART II: POLICIES RELATED TO PERSONS WITH DISABILTIES

2-II.A. OVERVIEW

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

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

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

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

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

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

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

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

2-II.D. VERIFICATION OF DISABILITY

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

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

access to the HACM's programs and services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2-II.G. PHYSICAL ACCESSIBILITY

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

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

- The Fair Housing Act of 1988

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

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

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

2-III.A. OVERVIEW

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

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

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

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

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

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

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

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

2-III.B. ORAL INTERPRETATION

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

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

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

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

2-III.C. WRITTEN TRANSLATION

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

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

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

2-III.D. IMPLEMENTATION PLAN

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

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

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

(1) Identifying LEP individuals who need language assistance;

(2) Identifying language assistance measures;

(3) Training staff;

(4) Providing notice to LEP persons; and

(5) Monitoring and updating the LEP plan.

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

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

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

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

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

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

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

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

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

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

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

Family

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

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

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

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

Household

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

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

Family Break-up [24 CFR 982.315]

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

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

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

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

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

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

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

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

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

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

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

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

Spouse means the marriage partner of the head of household.

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

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

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

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

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

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

Joint Custody of Dependents

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

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

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

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

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

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

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

Persons with Disabilities

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

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

Disabled Family

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

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

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

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

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

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

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

3.I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

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

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

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

Absent Students

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

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

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

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

Absent Head, Spouse, or Co-head

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

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

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

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

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

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

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

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

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

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

Using Income Limits for Targeting [24 CFR 982.201]

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

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

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

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

Eligible Noncitizens

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

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

Ineligible Noncitizens

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

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

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

Mixed Families

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

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

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

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

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

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

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Definitions

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

Dependent Child

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

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

Independent Student

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

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

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

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

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

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

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

  -Be a graduate or professional student

  -Be married

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

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

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

Institution of Higher Education

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

Parents

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

Veteran

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

Determining Student Eligibility

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

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

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

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

Determining Parental Income Eligibility

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

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

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

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

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

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

Denial of assistance includes any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Criminal Activity [24 CFR 982.553]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-III.D. SCREENING

Screening for Eligibility

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

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

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

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

Screening for Suitability as a Tenant [24 CFR 982.307]

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

The HACM *will not* conduct additional screening to determine an applicant family's suitability for tenancy.

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

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

The HACM will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The HACM will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

The HACM will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

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

HUD authorizes the HACM to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).
The HACM will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- The HACM will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

HUD permits PHAs to impose as a condition of admission, 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.

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

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

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

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

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the HACM will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

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

The family will be notified of a decision to deny assistance in writing within 14 calendar days of the determination.

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

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, the HACM will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 14 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the HACM to dispute the information within that 14-day period, the HACM will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

The Violence Against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(1) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- *That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.*

Definitions

As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
  - Any other person living in the household of that person and related to that person by blood and marriage.

Notification and Victim Documentation

The HACM acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under the HACM's policies. Therefore, if the HACM makes a determination to deny admission to an applicant family, the HACM will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One of the following:

A police or court record documenting the actual or threatened abuse, or

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the HACM will grant an extension of 14 calendar days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the HACM determines the family is eligible for assistance, no informal review will be scheduled and the HACM will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the HACM will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

HACM Confidentiality Requirements

All information provided to the HACM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term "developmental disability" means a severe, chronic disability or an individual that:

  - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - Is manifested before the person attains age22;
  - Is likely to continue indefinitely;
  - Results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; *and*
  - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services individualized supports or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) Infants and Young Children

  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three (3) or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and

is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps. Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of "Institution of Higher Education" From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of "Institution of Higher Education" From 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term "institution of higher education" for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term ''proprietary institution of higher education'' means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term ''proprietary institution of higher education'' also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term ''postsecondary vocational institution'' means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term ''postsecondary vocational institution'' also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides the HACM with the information needed to determine the family's eligibility. HUD requires the housing agencies to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the HACM must select families from the waiting list in accordance with HUD requirements and HACM policies as stated in the administrative plan and the annual plan.

The HACM is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the HACM to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

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

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

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the HACM will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the HACM's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the HACM will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide the HACM in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the HACM has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the HACM's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the HACM's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with Limited English Proficiency (LEP).

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

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the HACM to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the HACM.

The housing authority will only accept on-line applications. Information entered permits the housing authority to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The on-line pre-application will contain at minimum the following information:

- Applicant name
- Date and time of application
- Racial or ethnic designation of the head of household
- Annual (gross) family income
- Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Pre-applications will not require an interview. The information submitted will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Applicants will be advised that they can be placed on more than one of the HACM's waiting lists that serve Property Management, Project-Based, and the tenant-based Section 8 Programs. If it is determined that there is a specific need for applicants for a specific program, the waiting list may be opened only for applicants that meet the criteria for the specific program.

The Housing Authority will inform applicants about available preferences when the applicants are sent the letter informing them that they have been placed on the waiting list.

Applicants will be notified of the requirement to submit evidence of citizenship or eligible immigration status.

Persons with disabilities who require reasonable accommodations in submitting an on-line application may call the Housing Authority for assistance in entering the data. The Housing Authority does use the TDD or the California relay system for individuals who are hearing impaired.

The application process involves two phases. In the first phase, information is collected to place the applicant on the waiting list. At that time the family would declare any preferences they may be eligible to claim and collect the information on the family's income.

Applicants with the same preferences and ranking points, their order of placement will be determined by date and time of application.

The second phase is the verification and final determination of eligibility, which would take place when the family is reaching the top of the waiting list. The HACM will verify the preferences, income, and eligibility.

Families may apply on line from the HACM web site. (www.hamonterey.org) Families may also request for assistance in entering the data.

Applications will be accepted even if the waiting list is closed, from families living in a public housing or government subsidized property due to displacement for government action.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The HACM must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the HACM application process. This could include people with disabilities, certain elderly individuals, as well as persons with Limited English Proficiency (LEP). The HACM must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the HACM must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the HACM's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

HACM is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with Limited English Proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the HACM's policies related to ensuring access to people with limited English proficiency (LEP). The on-line application is in English and in Spanish.

4-I.D. PLACEMENT ON THE WAITING LIST

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

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

Ineligible for Placement on the Waiting List

If the HACM can determine from the information provided that a family is ineligible such as:

- Family owing money to any Housing Authority;
- Has been evicted from public housing within the last five years; or
- Was evicted for non-compliance / or in violation of the Family Obligations from any Section 8 Program within the last five years;

When a family is determined to be ineligible, the HACM will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

The HACM will send written notification of the preliminary eligibility determination within 60 calendar days of receiving a completed pre-application.

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

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their completed pre-application is received by the HACM.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

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

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

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

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

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

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

The HACM will maintain a single waiting list for the HCV program from which 75% of the applicants with local / ranking preferences will be issued vouchers and the remaining 25% will be selected by date and time only.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the HACM operates if:

- The other programs' waiting lists are open, and
- The family is qualified for the other programs.

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

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

The HACM will not merge the HCV waiting list with the waiting list for any other program that the HACM administers.

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

Closing the Waiting List

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

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

Reopening the Waiting List

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

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

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

- ***Salinas Californian;***
- ***Monterey Herald;***
- ***Local minority media,***
- ***Local governmental agencies;***
- ***And the HACM website.***

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

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

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

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

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

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

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

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

Notices will be mailed to organizations that serve the low-income families and persons with disabilities such as:

> County of Monterey Department of Social Services, Central Coast Center for Independent Living, Social Security Administration, Housing Choices Coalition, Interim, Inc., and other agencies serving the low-income population.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must immediately inform the HACM of changes in contact information, including current residence, mailing address, and phone number. The family must also report any change in family composition, which could affect the applicant's size of unit needed, or income, which could affect eligibility, and local preferences, which may change the applicant's priority for admission. The changes must be submitted in writing.

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

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

Purging the Waiting List

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

The waiting list will be updated on a regular basis going down the waiting list to ensure that all applicants and applicant information is current and timely.

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

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the HACM not later than fourteen (14) calendar days from the date of the HACM letter.

If the family fails to respond within fourteen (14) calendar days, the family will be removed from the waiting list and a letter will be sent informing them of the action taken.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have fourteen (14) calendar days to respond from the date the letter was re-sent.

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

Removal from the Waiting List

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

If a family is removed from the waiting list because the HACM has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the HACM's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

The order in which families receive assistance from the waiting list depends on the selection method chosen by the HACM and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

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

Targeted Funding [24 CFR 982.204(e)]

HUD may award a HACM funding for a specified category of families on the waiting list. The HACM must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

The HACM administers the following types of targeted funding:

Shelter Plus Care Program

Welfare to Work

Family Unification Program

Regular HCV Funding

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

4-III.C. SELECTION METHOD

HACM must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the HACM will use [24 CFR 982.202(d)].

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

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

Local Preferences:

Local preferences will be used to select 75% families from the waiting list and the remaining 25% will be selected by date and time.

From all eligible families: Selection shall be made without regard to race, color, creed, religion, sex, nation origin, age, familial status, or disability.

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

Local Preference with the same points will be ranked by the Ranking Point system and the date and time of application

- Frail elderly. (10 points)
- Families living in a rental rehabilitation project. (10 points)
- Formerly homeless families or homeless families actively enrolled in a case management, transitional housing, or other self-sufficiency program. (15 points)
- Families living in moderate rehabilitation and/or project-based program units whose health, welfare, or safety is threatened, or families who have provided drug related criminal activity testimony. (10 points)
- Families that need to move closer to medical and/or social services facilities. (10 points)
- Victims of disasters as verified by FEMA, the American Red Cross or other disaster assistance agency. (30 points)
- Families who reside in substandard housing, or who are involuntarily displaced or about to be involuntarily displaced as a result of code enforcement activities as determined by local Housing code Enforcement Program Officials. (50 points)
- Elderly families or families headed by an elderly person. (10 points)
- Families with household members who are mentally/physically/ developmentally disabled. (10 points)
- Families who have been diagnosed with a medical condition as severe/terminal, resulting in a medical crisis that may require continuous care services in the home. (30 points)
- Families who are considered to be living in-place. Those living in a unit that will be brought under contract where the landlord accepts the HCV Program. Verification required will be a copy of their lease in an appropriate size dwelling for the family listed

in the housing application and copies of their utility bills for a 3 (three) month period verifying their residency in the unit. (25 points) (Rev 02/23/04)

- Monterey County Residents (50 points)
- Veteran (10 points)
- Victims of Domestic Violence: The HACM will offer a local preference to families that have been subjected to or victimized by a member of the family or household within the past 6 months. (10 points)

  The HA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home. The following criteria are used to establish a family's eligibility for this preference:

  Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit within the family. The actual or threatened violence must have occurred within the past six months or be of a continuing nature.

  To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the HACM gives prior written approval. The HACM will approve the return of the abuser to the household under the following conditions:

  - The HACM verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior.
  - A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.
  - If the abuser returns to the family without approval of the HACM, the HACM will deny or terminate assistance for breach of the certification.

At the family's request, the HACM will take precautions to ensure than the new location of the family is concealed in cases of domestic abuse.

An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced and will not qualify for a local preference.

Treatment of Single Applicants

Single applicants who are elderly, disabled, or displaced families of no more than two person families will be given a selection priority over all "Other Single" applicants regardless of preference status.

"Other Singles" denotes a one-person household in which the individual member is not elderly, disabled, or displaced by government action. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for assistance before any one-person elderly, disabled or displaced family regardless of local preferences.

All families with children and families who include an elderly person or a person with a

disability (see 24 CFR 100.80) shall be given a selection priority over all other applicants.

The HACM will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.

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

HUD requires that Extremely Low-Income (ELI) families make up at least 75% of the families admitted to the HCV program during the HACM's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the HACM may skip non-ELI families on the waiting list in order to select an ELI family.

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

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

Order of Selection

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

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the HACM's local preferences. Within each targeted funding or preference ranking, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the HACM. Documentation will be maintained by the HACM as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the HACM does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

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

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

The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Other documents and information that should be brought to the interview

If a notification letter is returned to the HACM with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

4-III.E. THE APPLICATION INTERVIEW

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

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

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

The head of household, spouse/co-head, and all adult family members will be required to attend the interview.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

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

Any required documents or information that the family is unable to provide at the interview must be provided within 14 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

Interviews will be conducted in English or in Spanish by staff. For Limited English Proficient (LEP) applicants, the HACM will provide translation services in accordance with the HACM's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HACM in advance of the interview to schedule a new appointment. Applicants who fail to attend two scheduled interviews without HACM approval will be denied assistance based on the family's

failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

If the HACM determines that the family is ineligible, the HACM will send written notification of the ineligibility determination within 14 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

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

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

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

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

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

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

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

HACM 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, the HACM may approve another adult family member to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to an appropriate HACM staff person.
- Briefings will be conducted in English and in Spanish. And for Limited English Proficient (LEP) applicants the HACM will provide translation services in accordance with the HACM's LEP plan (See Chapter 2).

Notification and Attendance

HACM POLICY

- Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.
- If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record. Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The HACM will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without HACM approval, will be denied assistance (see Chapter 3).
- Not attending a briefing because of incarceration is not an acceptable reason to hold an applicant's place on the waiting list and will result in removal from the waiting list.

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the HACM's jurisdiction;
- For families eligible under portability, an explanation of portability. The HACM cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

When HACM-owned units are available for lease, the HACM will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HACM-owned unit.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and the HACM's policies on any extensions or suspensions of the term. If the HACM allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the HACM determines the payment standard for a family, how the HACM determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the HACM determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the HACM jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the HACM policy on providing information about families to prospective owners.
- The HACM subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the HACM.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the HACM may terminate assistance for a participant family because of family action or failure to act.

- HACM informal hearing procedures including when the HACM is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, HAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

HACM POLICY

The HACM will provide the following additional materials in the briefing packet:

- When HACM-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HACM-owned unit.
- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required By Family Obligations

HACM POLICY

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the HACM of a change, notifying the HACM of the request or change within 14 calendar days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV program:

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

HACM POLICY

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

- The family must allow the HACM to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
- The family must give a 30-day notice to the HACM and the owner before moving out of the unit or terminating the lease. The family will be allowed to move only once in a twelve month period.

HACM POLICY

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HACM at the same time the owner is notified.

- The family must promptly give the HACM a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the HACM. The family must promptly notify the HACM in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACM approval to add any other family member as an occupant of the unit.

HACM POLICY

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

- The family must promptly notify the HACM in writing if any family member no longer lives in the unit.
- If the HACM has given approval, a foster child or a live-in aide may reside in the unit. The HACM has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACM consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).

- The family must not sublease the unit, assign the lease, or transfer the unit.

HACM POLICY

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

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

HACM 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 the HACM at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and HACM policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and HACM policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACM has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

The HACM will determine if a family has committed serious or repeated violations of the lease with the following:

- Written notice from owner to the HACM and family of the serious/repeated lease violation(s);
- Police reports;
- Arrest logs;
- Neighbor complaints or other third party information;
- Destruction of property or living or housekeeping habits that cause damage to the unit or premises;
- Criminal activity;
- Non-payment of rent;
- Failure to allow owner to make necessary repairs; or
- Disturbing the quiet and peaceful enjoyment of the premises by others, based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

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

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

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

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

HACM POLICY

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

- Persons of the opposite sex (other than spouses, and children under age six (6)) will be allocated separate bedrooms.
- Live-in aides will be allocated a separate bedroom.
- Single person families will be allocated one bedroom.

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

Voucher Size	**Persons in Household** (Minimum – Maximum)
0 Bedroom	1 - 1
1 Bedroom	1-2
2 Bedrooms	2-6
3 Bedrooms	3-8
4 Bedrooms	4-10
5 Bedrooms	6-12

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the HACM may grant an exception to its established subsidy standards if the HACM determines that the exception is justified by the age,

sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

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

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

HACM POLICY

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

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

The HACM will notify the family of its determination within 14 calendar days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

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

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

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

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

HACM POLICY

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

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

HACM POLICY

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

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

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

Voucher Term [24 CFR 982.303]

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

HACM POLICY

The initial voucher term will be 60 calendar days but two additional 30-day extensions may be given for a total of 120 days.

As a reasonable accommodation for a person with disabilities, the voucher can be extended for an additional 30 days for a total of 150 days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the HACM grants an extension.

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

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

Public housing agencies must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose. The family must be notified in writing of the HACM's decision to approve or deny an extension. The HACM's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

The initial 60-day term has an option for two 30-day extensions. A voucher holder requesting an extension must submit to the Housing Authority a list of contacts with prospective lessors and the results of the contacts from the past 60-day period. The HACM will approve an additional 30-day extension beyond the full 120-day period (not to exceed 150-day period) only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by the HACM. Following is a list of extenuating circumstances that the HACM may consider in making

its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family
- Other family emergency
- Obstacles due to employment
- Whether the family has already submitted requests for tenancy approval that were not approved by the HACM
- Whether family size or other special requirements make finding a unit difficult

Any request for an additional extension must include the reason(s) an additional extension is necessary. The HACM may require the family to provide documentation to support the request.

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

The HACM will decide whether to approve or deny an extension request within 14 calendar days of the date the request is received, and will immediately provide the family written notice of its decision.

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

The HACM has adopted a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. "Suspension" means stopping the clock on a family's voucher term from the time a family submits the RTA until the time the HACM approves or denies the request [24 CFR 982.4]. The HACM's determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

When a Request for Tenancy Approval and proposed lease is received by the HACM, the term of the voucher will be suspended while the HACM processes the request.

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the HACM will require that the family reapply only if the waiting list is open for applications. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), the HACM will require the family to reapply for assistance only if the waiting list is open for applications. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by the HACM, the family will have the suspended time remaining to search for another unit and if not successful, be required to reapply for assistance.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

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

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

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Which are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)

- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

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

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

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

Absent Students

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

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

Absences Due to Placement in Foster Care

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

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

Absent Head, Spouse, or Cohead

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

In the case where the household member is a spouse and the remaining spouse is requesting to remove as a household member, acceptable verification would be documentation of a legal separation, filing for dissolution of marriage, annulment, or other verification acceptable to the HACM as sufficient proof that the family member is no longer in the household.

Family Members Permanently Confined for Medical Reasons

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

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

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

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time. When more than one applicant or participant family is claiming the same dependents as family member, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HACM will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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

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

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 30 days. After the 30 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACM will extend the caretaker's status as an eligible visitor.

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

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

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

When the HACM cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HACM will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HACM to show why the historic pattern does not represent the family's anticipated income.

Families that report zero income are required to attend an office appointment to complete a written certification every 30 days and will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc. If the family's expenses exceed their known income, the HACM will make inquiry of the head of household as to the nature of the family's accessible resources.

Known Changes in Income

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

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

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

Using Enterprise Income Verification (EIV) to Project Income

HUD strongly recommends the use of Enterprise Income Verification (EIV). EIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [VG, p. 7].

HUD allows HAs to use EIV information in conjunction with family-provided documents to anticipate income [EIV].

HACM procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the HACM interview date.

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

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

If the EIV figure is less than the family's figure, the HACM will use the family's information.

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

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

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

- When the HACM cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the HACM will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- The HACM will analyze all EIV, third party, and family-provided data and attempt to resolve the income discrepancy.
- The HACM will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation.

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

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

Some Types of Military Pay.

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

Types of Earned Income <u>Not</u> Counted in Annual Income

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

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

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

Children's Earnings.

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

Certain Earned Income of Full-Time Students.

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c) (11)]. To be considered "full-time," a

student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide.

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

Income Earned under Certain Federal Programs.

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c) (17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend.

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

State and Local Employment Training Programs.

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

The HACM defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-

job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

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

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

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

HUD-Funded Training Programs.

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

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

Earned Income Tax Credit.

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

Earned Income Disallowance.

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

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage

applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

The HACM defines *prior income,* or *prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion.

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

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

Second 12-Month Exclusion and Phase-In.

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation.

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the HACM will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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

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

Business Expenses

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

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

Business Expansion

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

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

Capital Indebtedness

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

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

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

Co-owned Businesses

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

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

Overview

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

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

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

General Policies

Income from Assets

The HACM generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the HACM to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected
- It is not feasible to anticipate a level of income over 12 months or
- The HACM believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the HACM can take into consideration past rental income along with the prospects of obtaining a new tenant.

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

Valuing Assets

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

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

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

Lump-Sum Receipts

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

Imputing Income from Assets [24 CFR 5.609(b) (3)]

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

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

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

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

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

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

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

Minimum Threshold

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

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

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

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

Separation or Divorce

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

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

Foreclosure or Bankruptcy

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

Family Declaration

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

Types of Assets

Checking and Savings Accounts

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

In determining the value of a checking account, the HACM will use the average monthly balance for the last three months.

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

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

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

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

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

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

Equity in Real Property or Other Capital Investments

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

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

- Equity accounts in HUD homeownership programs [24 CFR5.603 (b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]

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

A family may have real property as an asset in two ways:

(1) owning the property itself and

(2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the HACM determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

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

Revocable Trusts

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

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

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

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

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

IRA, Keogh, and Similar Retirement Savings Accounts

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

Personal Property

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

In determining the value of personal property held as an investment, the HACM will use the family's estimate of the value. Also other sources HACM deems appropriate.

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

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

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

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments <u>Included</u> in Annual Income

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

periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b) (4) and (b) (3)].

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b) (4)].

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

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

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

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

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

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

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

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b) (4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

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

CFR 5.609(c) (3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

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

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

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

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the HACM must include in annual income "imputed" welfare income. The HACM must request that the welfare agency inform the HACM when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits:

- At the expiration of the lifetime or other time limit on the payment of welfare benefits,
- If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or
- Because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b) (2)].

Offsets

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

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

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

Alimony and Child Support

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

The HACM will count court-awarded amounts for alimony and child support unless the HACM verifies that:

- The payments are not being made and
- The family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Self-certification or other notarized documentation will be acceptable documentation.

Regular Contributions or Gifts

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

Examples of regular contributions include:

- Regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments),
- Cash or other liquid assets provided to any family member on a regular basis, and
- "In-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the HACM. For contributions that may vary from month to month (e.g., utility payments), the HACM will include a six-month average amount based upon past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b) (9)]

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

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b) (9) and FR 4/10/06]

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

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

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

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

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

Tuition will have the meaning given this term by the institution of higher education in which

- The student is enrolled.

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

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

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

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c) (17)]. HUD publishes an updated list of these exclusions periodically. It includes:
    a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
    b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
    c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
    d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
    e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
    f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
    g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
    h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
    i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

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

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

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

m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require public housing agencies to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
>
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

Generally, the HACM will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), the HACM will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the HACM will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. (HACM will look at past payment history to determine eligible amount). However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The HACM may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a) (1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a) (2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a) (3) (i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, noncosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACM will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a) (3) (ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

1. Are necessary to enable a family member 18 years or older to work;
2. Are not paid to a family member or reimbursed by an outside source;
3. In combination with any medical expenses, exceed three percent of annual income, and
4. Do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a) (3) (ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the HACM will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the HACM determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises public housing agencies to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus is eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the HACM will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

The HACM determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the HACM will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the HACM will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACM will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the HACM will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the HACM.

Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that 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 income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

The HACM must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the HACM generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The HACM may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the HACM will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is

13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the HACM will use the schedule of childcare costs from the local welfare agency. Families may present, and the HACM will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND HA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The HACM has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.

Family Share [24 CFR 982.305(a) (5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HACM's applicable payment standard:

1) The family will pay more than the TTP, and
2) At initial occupancy the HA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly-adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

HACM Subsidy [24 CFR 982.505(b)]

The HACM will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of:

1) The applicable payment standard for the family minus the family's TTP or
2) The gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]

When the HACM subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the HACM to pay the reimbursement to the family or directly to the utility provider.

The HACM will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the HACM establishes a minimum rent greater than zero, the HACM must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the HACM determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

   A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

   For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following:

   - Implementation of assistance, if approved, or

- The decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2. The family would be evicted because it is unable to pay the minimum rent.
   - For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.
3. Family income has decreased because of changed family circumstances, including the loss of employment.
4. A death has occurred in the family.
   - In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).
5. The family has experienced other circumstances determined by the HACM.
   - The HACM has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the HACM must suspend the minimum rent requirement beginning the first of the month following the family's request.

The HACM then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

The HACM defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the HACM has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$35 Minimum rent	$35 Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The HACM will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the HACM determines there is no financial hardship, the HACM will reinstate the minimum rent and require the family to repay the amounts suspended.

The HACM will require the family to repay the suspended amount within 30 calendar days of the HACM's notice that a hardship exemption has not been granted.

Temporary Hardship

If the HACM determines that a qualifying financial hardship is temporary, the HACM must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the HACM the amounts suspended. HUD requires the HAs to offer a reasonable repayment agreement, on terms and conditions established by the HACM. The HACM also may determine that circumstances have changed and the hardship is now a long-term hardship.

The HACM will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the HACM determines that the financial hardship is long-term, the HACM must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, (family's only source of income) the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

The HACM's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HACM's payment standards. The establishment and revision of the HACM's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of:

1. The payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the HACM's subsidy standards [24 CFR 982.4(b)], or
2. The payment standard for the size of the dwelling unit rented by the family.

If the HACM has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the HACM must use the appropriate payment standard for the exception area.

- The HACM is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of: The payment standard for the family minus the family's TTP or
- The gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the HACM will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the HACM revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The HACM will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, the HACM will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

Step 2: The HACM will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the HACM at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The HACM will advise the family

that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the HACM has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the HACM is allowed to establish a higher payment standard for the family within the basic range.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A HACM-established utility allowance schedule is used in determining family share and HACM subsidy. The HACM must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using HACM subsidy standards. See Chapter 5 for information on the HACM's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a HACM to approve a utility allowance amount higher than shown on the HACM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HACM will approve an allowance for air-conditioning, even if the HACM has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the HACM with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the HACM must use the HACM current utility allowance schedule [24 CFR 982.517(d) (2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The HACM must prorate the assistance provided to a mixed family. The HACM will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the HACM subsidy for a family is calculated at $500 and two of four family members are ineligible, the HACM subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(3) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(4) (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness

shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b) (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c) (7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

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[1] Text of 45 CFR 260.31 follows.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: General Temporary Assistance for Needy Families

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Non-recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b) (9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives

coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment-training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) Disallowance of increase in annual income—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve-month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c) (1) or (c) (2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48-month period starting from the initial exclusion under paragraph (c)(1) of this section.

***(d)** Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the HACM by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the HACM, the welfare agency will inform the HACM in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the HACM of any subsequent changes in the term or amount of such specified welfare benefit reduction. The HAC M will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the HACM's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the HACM by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The HACM may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of HACM decision.

(1) Public housing. If a public housing tenant claims that the HACM has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the HACM denies the family's request to modify such amount, the HACM shall give the tenant written notice of such denial, with a brief explanation of the basis for the HACM determination of the amount of imputed welfare income. The HACM notice shall also state that if the tenant does not agree with the HACM determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the HACM determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the HACM determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the HACM denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the HACM determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the HACM determination, the family may request an informal hearing on the determination under the HACM hearing procedure.

(e) HACM relation with welfare agency.

(1) The HACM must ask welfare agencies to inform the HACM of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the HACM written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The HACM is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the HACM. However, the HACM is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The HACM shall be entitled to rely on the welfare agency notice to the HACM of the welfare agency's

determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

INTRODUCTION

The HACM must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The HACM must not pass on the cost of verification to the family.

The HACM will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACM policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the HACM

PART I. GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the HACM or HUD determines is necessary to the administration of the program and must consent to HACM verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the HACM may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the HACM will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with HACM procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the housing agencies to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the HACM to use the most reliable form of verification that is available and to document the reasons when the HACM uses a lesser form of verification.

HACM POLICY

In order of priority, the forms of verification that the HACM will use are:

- Enterprise Income Verification (EIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

HACM 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 HACM. The documents must not be damaged, altered or in any way illegible.

The HACM will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the HACM would accept the most recent report.

Printouts from web pages are considered original documents.

The HACM staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the HACM and must be signed in the presence of a HACM representative or HACM notary public.

File Documentation

The HACM must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the HACM has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.C. ENTERPRISE INCOME VERIFICATION (EIV)

Enterprise Income Verification (EIV) refers to the HACM's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV will be used to the extent that these systems are available to the HACM.

The HACM will inform all applicants and participants of its use of the following EIV resources during the admission and reexamination process:

- HUD's EIV system (when it is available to the HACM)
- The Work Number
- State of California EDD

The HACM must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and EIV-generated information. No adverse action can be taken against a family until the HACM has independently verified the EIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the HACM.

Definition of Substantial Difference

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available" [HUD website, April 2004], HUD recommends using $200 per month as the threshold for a substantial difference. The HACM will therefore use $200 per month as the threshold for a substantial difference.

See Chapter 6 for the HACM's policy on the use of EIV to project annual income and for the HACM's threshold for substantial difference.

When No Substantial Difference Exists

If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the EIV source and the family, the HACM must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires the HACM to use the EIV system when available. The following policies will apply when the HACM has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

Tenant Income Data (TID) Reports

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

The HACM will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits.

TID reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the HACM determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

Exceeds Threshold Reports (ETRs)

The ETR is a tool for identifying families who may have concealed or under-reported income. Data in the ETR represents income for past reporting periods and may be between 6 months and 30 months old at the time ETRs are generated.

Families who have not concealed or under-reported income may appear on the ETR in some circumstances, such as loss of a job or addition of new family members.

The HACM will generate and review ETRs on a monthly basis. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.

In reviewing ETRs, the HACM will begin with the largest discrepancies.

When the HACM determines that a participant appearing on the ETR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from ETR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the HACM will request third-party written verification of the income in question.

When the HACM determines through ETR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security number, name, and date of birth.

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

The HACM will identify participants whose identity verification has failed as part of the annual reexamination process.

The HACM will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the HACM determines that discrepancies exist due to HACM errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the HACM to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

The HACM will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The HACM may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The HACM will send a written request for verification to each required source within 7 calendar days of securing a family's authorization for the release of the information and give the source 14 calendar days to respond in writing. If a response has not been received by the 15th calendar day, the HACM will request third-party oral verification.

The HACM will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, HACM staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the HACM will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the HACM will wait no more than 7 calendar days for the information to be provided. If the information is not provided by the 8th calendar day, the HACM will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the HACM will use the information from documents on a provisional basis. If the HACM later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the HACM will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the HACM's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

The HACM will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The HACM will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

The HACM will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $1000 annually ***and*** the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The HACM will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the HACM will rely upon review of documents when the HACM determines that a third party's privacy rules prohibit the source from disclosing information.

The HACM also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense, which causes a burden on the families *when* the family has original documents that provide the necessary information.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If the HACM has determined that third-party verification is not available or not required, the HACM will use documents provided by the family as verification.

The HACM may also review documents when necessary to help clarify information provided by third parties. In such cases the HACM will document in the file how the HACM arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HACM.

The HACM may require a family to certify that a family member does <u>not</u> receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HACM and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HACM representative.

PART II. VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

The HACM will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicles identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
U.S. passport	School records
Employer identification card	

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HACM's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HACM and be signed in the presence of a HACM representative or a notary public.

Legal identity will be verified on an as needed basis.

When a member of the household becomes an adult, i.e., turn 18 years of age; the HACM will require them to furnish a photo ID as verification of legal identity at the family's next annual re-exam.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

The HACM will also accept the following documents as evidence if the SSN is provided on the document:

- Driver's license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

- Payroll stubs
- Benefit award letters from government agencies;
- Retirement benefit letters;
- Life insurance policies; or
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, the HACM will require a self-certification stating that documentation of the SSN cannot be provided at this time. The HACM will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above.

The HACM will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the HACM will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACM will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification. If the HACM has reasonable doubts about a marital relationship, the HACM will require the family to document the marriage.

- A marriage certificate generally is required to verify that a couple is married.
- In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife),
- Using the same last name, filing joint income tax returns).

Separation or Divorce

- A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
- A copy of a court-ordered maintenance or other court record is required to document a separation.
- If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

The HACM requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co head, or
- The family claims a childcare deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The HACM must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HACM is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HACM may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACM receives a verification document that provides such information, the HACM will not place this information in the tenant file. Under no circumstances will the HACM request a participant's

medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above-cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive disability benefits from the SSA, the HACM will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available, or HUD's Tenant Assessment Subsystem (TASS). If documentation from HUD's EIV System or TASS is not available, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the HACM will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the HACM.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter.

This verifications chapter discusses HUD and HACM verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The HACM may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HACM receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

HACM Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HACM must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The HACM will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The HACM must verify any preferences claimed by an applicant prior to housing.

- FRAIL ELDERLY - *Letter from doctor or social services stating assistance needed with daily living activities.*
- FAMILIES WITH HOUSEHOLD MEMBERS WHO ARE MENTALLY/PHYSICALLY/ DEVELOPMENTALLY DISABLED - *Receiving Social Security/SSI benefits or letter from doctor/social services verifying mental/physical/developmental* disability.

- FAMILIES WHO HAVE BEEN DIAGNOSED WITH A MEDICAL CONDITION AS SEVERE/TERMINAL, RESULTING IN A MEDICAL CRISIS WHICH MAY REQUIRE CONTINUOUS CARE SERVICES IN THE HOME - **Letter** *from doctor stating medical condition.*
- FAMILIES LIVING IN RENTAL REHABILITATION PROJECT - *Letter from City verifying unit is being rehabilitated.*
- FORMERLY HOMELESS FAMILIES OR HOMELESS FAMILIES ACTIVELY ENROLLED IN A CASE MANAGEMENT, TRANSITIONAL HOUSING OR OTHER SELF-SUFFICIENCY PROGRAM - *Letter from agency assisting with case management, transitional housing or self-sufficiency program.*
- FAMILIES LIVING IN MODERATE REHABILITATION AND/OR PROJECT-BASED PROGRAM UNITS WHOSE HEALTH, WELFARE, OR SAFETY IS THREATENED, OR FAMILIES WHO HAVE PROVIDED DRUG RELATED CRIMINAL ACTIVITY TESTIMONY - *Letter from law enforcement officials.*
- FAMILIES THAT NEED TO MOVE CLOSER TO MEDICAL AND/OR SOCIAL SERVICES FACILITIES - *Letter from doctor or social services.*
- VICTIMS OF DISASTERS - *Verification provided by FEMA, Red Cross, or other disaster assistance agency.*
- FAMILIES WHO RESIDE IN SUBSTANDARD HOUSING OR WHO ARE INVOLUNTARILY DISPLACED OR ABOUT TO BE INVOLUNTARILY DISPLACED AS A RESULT OF CODE ENFORCEMENT ACTIVITIES AS DETERMINED BY LOCAL HOUSING CODE ENFORCEMENT PROGRAM OFFICIALS - *Letter from governmental official verifying condition of unit.*
- ELDERLY FAMILIES OR FAMILIES HEADED BY AN ELDERLY PERSON - *Information on application.*
- VICTIMS OF DOMESTIC VIOLENCE – *The Housing Authority will offer a local preference to families that have been subjected to or victimized by a member of the family or household within the past 6 (six) months. The HACM will require evidence that the family has been displaced as a result off fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.*
- FAMILIES WHO ARE CONSIDERED TO BE LIVING IN-PLACE. THOSE LIVING IN A UNIT WHERE THE LANDLORD WILL ACCEPT THE S8 HCV PROGRAM –*Must have resided in unit for the past three months and must remain in unit for a period of no less than one year after assistance starts. Must meet additional program requirements in order to qualify for the In-Place preference.*
- The HACM will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. Those families will be the first ones to be issued a voucher at the next scheduled briefing. The HACM will verify this preference using the HACM's termination records.
- VETERAN PREFERENCE - Client providing a copy of DD 214 certifying an honorable discharge.
- RESIDENCY PREFERENCE – Copy of lease, rent receipts, copy of utility bills listing their

name and address and signed landlord verification.

PART III. VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HACM policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The HACM will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HACM may request documents that support submitted financial statements such as manifests, appointment books, cashbooks, or bank statements.

If a family member has been self-employed less than three (3) months, the HACM will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months.

If the family member has been self-employed for three (3) to twelve (12) months the HACM will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the HACM will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter

they will be required to provide it to the HACM.

To verify the SS/SSI benefits of participants, the HACM will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the HACM will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the HACM will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to the HACM.

7-III.D. ALIMONY OR CHILD SUPPORT

The way the HACM will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order:

- If payments are made through a state or local entity, the HACM will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

  Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HACM needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The HACM will verify the value of assets disposed of only if:

- The HACM does not already have a reasonable estimation of its value from previously

collected information, or

- The amount reported by the family in the certification appears obviously in error.

> Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HACM verified this amount. Now the person reports that she has given this $10,000 to her son. The HACM has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.
> Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HACM will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant; and
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HACM will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the HACM will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, the HACM will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, the HACM will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HACM must obtain verification for income exclusions only if, without verification, the HACM would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HACM will confirm that HACM records verify the child's age but will not send a verification request to the restaurant. However,

if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

The HACM will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the HACM will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. In addition, a zero income verification and questionnaire will need to be filled out by participant every 30 days.

PART IV. VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HACM verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The HACM will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The HACM will verify that the head, spouse, or co head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

The HACM will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible
- If third party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the HACM will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACM will also accept evidence of monthly

payments or total payments that will be due for medical expenses during the upcoming 12 months.

- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the HACM must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The HACM will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the HACM's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HACM will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

The HACM will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible.
- If third party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the HACM must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HACM will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HACM must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The HACM will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

An attendant care provider will be asked to certify that, to the best of the provider's knowledge,

the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the HACM must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The HACM will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

The childcare provider will be asked to certify that, to the best of the provider's knowledge, the childcare expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The HACM must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be gathered

The HACM will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HACM will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HACM will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the HACM any reports provided to the other agency.

In the event third-party verification is not available, the HACM will provide the family with a form on which the family member must record job search efforts. The HACM will review this

information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HACM will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The HACM will seek verification from the employer of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

The HACM will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HACM will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HACM will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

The actual costs the family incurs will be compared with the HACM's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HACM will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14)

Upfront (UIV)	Highest (Highly Recommended, highest level of third party verification)
Written 3rd Party	High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)
Oral 3rd Party	Medium (Mandatory if written third party verification is not available)
Document Review	Medium-Low (Use on provisional basis)
Tenant Declaration	Low (Use as a last resort)

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	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.

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.

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.

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.)

EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]	
• **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the HACM. • Except for persons 62 or older, all noncitizens must sign a verification consent form • Additional documents are required based upon the person's status.	
Elderly Noncitizens • A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.	
All other Noncitizens • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*	

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the HACM to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and HACM-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires Housing Authorities to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and HACM requirements related to housing quality and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections the HACM will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the HACM will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8.I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas sanitary facilities

- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality

- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the Housing Authorities to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the HACM must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the HACM for review.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

The HACM may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the HACM additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The HACM must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

As permitted by HUD, the HACM has adopted the following specific requirements that elaborate on HUD standards.

Walls

- In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

- Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a weather-tight seal.
- Window screens must be in good condition (applies only if screens are present).

Doors

- All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
- All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
- All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
- All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.
- All sinks must have functioning stoppers.

Security

- If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the HACM to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of HACM notification.

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

If an owner fails to correct life-threatening conditions as required by the HACM, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life-threatening condition as required by the HACM, the HACM may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the HACM determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-I. D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items, which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a housing authority is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the housing authority must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the HACM, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the HACM will take action in accordance with Section 8-II.G.

HACM reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the HACM determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HACM must issue the family a new voucher, and the family and HACM must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACM must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The HACM conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The HACM conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections*. HUD requires the HACM to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a supervisor or other qualified individual to ensure that all inspectors are enforcing HQS correctly and uniformly reinspect a sample of units.

Inspection of HACM-owned Units [24 CFR 982.352(b)]

The HACM must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HACM-owned unit. A HACM-owned unit is defined as a unit that is owned by the HACM that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HACM). The independent agency must communicate the results of each inspection to the family and the HACM. The independent agency must be approved by HUD, and may be the unit of general local government for the HACM jurisdiction (unless the HACM is itself the unit of general local government or an agency of such government).

Inspection Costs

The HACM may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of HACM-owned units, the HACM may compensate the independent agency from ongoing administrative fee for inspections performed. The HACM and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the HACM to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 9:00 a.m. and 4:00 p.m. Generally inspections will be conducted on business days only. In the case of a life-threatening emergency, the HACM will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the HACM to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the HACM will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires Housing Authorities with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For Housing Agencies with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b) (2)].

The HACM will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the HACM for good cause. The HACM will reinspect the unit within 5 business days of the date the owner notifies the HACM that the required corrections have been made.

If the time period for correcting the deficiencies (or any HACM-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the HACM will notify the owner and the family that the unit has been rejected and that the family must search for another unit.

The HACM may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

If utility service is not available for testing at the time of the initial inspection, the HACM will allow the utilities to be placed in service after the unit has met all other HQS requirements. The HACM will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the HACM.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, the HACM will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the HACM. The HACM will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8.II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

If an adult family member cannot be present on the scheduled date, the family should request that the HACM reschedule the inspection. The HACM and family will agree on a new inspection date that generally should take place within 7 calendar days of the originally scheduled date. The HACM may schedule an inspection more than 7 calendar days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HACM will automatically schedule a second inspection. If the family misses two scheduled inspections without HACM approval, the HACM will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB p. 10-30]

The HACM will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

During a special inspection, the HACM generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the HACM may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b), HCV GB p. 10-32]

HUD requires a HACM supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include:

- Each type of inspection (initial, annual, and special);

- Inspections completed by each inspector; and
- Units from a cross-section of neighborhoods.

8.II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the HACM will determine\

- Whether or not the failure is a life threatening condition; and
- Whether the family or owner is responsible.

When life-threatening conditions are identified, the HACM will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the HACM's notice.

When failures that are not life threatening are identified, the HACM will send the owner and the family a written notification of the inspection results within 7 calendar days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 calendar days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any HACM-approved extension), the owner's HAP will be abated in accordance with HACM policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any HACM-approved extension, if applicable) the family's assistance will be terminated in accordance with HACM policy (see Chapter 12).

Extensions

For conditions that are life threatening, the HACM cannot grant an extension to the 24-hour corrective action period. For conditions that are not life threatening, the HACM may grant an exception to the required time frames for correcting the violation, if the HACM determines that an extension is appropriate [24 CFR 982.404].

Extensions will be granted in cases where the HACM has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 calendar days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make

repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Reinspections

The HACM will conduct a reinspection immediately following the end of the corrective period, or any HACM approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the HACM will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HACM policies. If the HACM is unable to gain entry to the unit in order to conduct the scheduled reinspection, the HACM will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8.II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the HACM must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the HACM, HUD requires the HACM to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

The HACM will make all HAP abatements effective the first of the month following the expiration of the HACM specified correction period (including any extension).

The HACM will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The HACM must decide how long any abatement period will continue before the HAP contract will be terminated. The HACM should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The HACM will issue a voucher to permit the family to move to another unit as described in Chapter 10.

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the HACM before the termination date of the HAP contract, the HACM may rescind the termination notice if:

- The family still resides in the unit and wishes to remain in the unit; and
- The unit passes inspection.

Reasonable notice of HAP contract termination by the HACM is 30 calendar days.

8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the HACM (and any extensions), the HACM will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the HACM has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

HACM-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a HACM-owned unit, the HACM must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A HACM-owned unit is defined as a unit that is owned by the HACM that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HACM). The independent agency must communicate the results of the rent reasonableness determination to the family and the HACM. The independent agency must be approved by HUD, and may be the unit of general local government for the HACM jurisdiction (unless the HACM is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The HACM must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The HACM (or independent agency in the case of HACM-owned units) will assist the family with the negotiations upon request. At initial occupancy the HACM must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the HACM may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the HACM will consider unit size and length of tenancy in the other units.

The HACM will determine whether the requested increase is reasonable within 14 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 calendar days after the HACM's receipt of the owner's request or on the date specified by the owner, whichever is later.

HACM- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the HACM to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 calendar days before the contract anniversary date. HUD also may direct the HACM to make a determination at any other time. The HACM may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, the HACM will make a determination of rent reasonableness at any time after the initial occupancy period if:

- The HACM determines that the initial rent reasonableness determination was in error; or
- The HACM determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires housing agencies to take into consideration the factors listed below when determining rent comparability. The HACM may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit:

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest

Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the HACM payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the HACM information regarding rents charged for other units on the premises.

8-III.D. HACM RENT REASONABLENESS METHODOLOGY

How Market Data is collected

The HACM will collect and maintain data on market rents in the HACM's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The HACM will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the HACM may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The HACM will notify the owner of the rent the HACM can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The HACM will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 7 calendar days of the HACM's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one open able window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children less than six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed;
- Provide all prospective families with "Protect Your Family from Lead in Your Home";
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the HACM;
- Notify tenants each time such an activity is performed;
- Conduct all work in accordance with HUD safe practices; and
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the HACM). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

- *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the HACM to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the HACM must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the HACM and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the HACM, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The HACM has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before HACM approval of the tenancy, the HACM will inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The HACM must also inform the owner or manager of their responsibility to comply with VAWA. [Pub.L. 109-162]

- The HACM will provide the owner with the family's current and prior address (as shown in the HACM records) and the name and address (if known to the HACM) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The HACM is permitted, but not required, to offer the owner other information in the HACM's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The HACM will provide the following information based on documentation in its possession:

- Eviction history
- Damage to rental units
- Drug trafficking by family members

The information will be provided for the last three years and will be provided orally.

The HACM's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The HACM will not screen applicants for family behavior or suitability for tenancy.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the HACM to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the HACM:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the HACM to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACM has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either:

- Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
- Attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

Both the family and the owner must sign the RTA.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and the HACM will not process, more than one (1) RTA at a time.

When the family submits the RTA the HACM will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the HACM will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The HACM will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the HACM will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the HACM will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The HACM will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the HACM will attempt to communicate with the owner and family by phone, fax, or email. The HACM will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

The HACM does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HACM may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the HACM's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The HACM may <u>not</u> assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

HACM-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the HACM issuing the voucher may also be leased in the voucher program. In order for a HACM-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the HACM must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a HACM-owned unit without any pressure or steering by the HACM.

The HACM does have eligible HACM-owned units available for leasing under the voucher program.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the HACM to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room

occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the HACM has chosen to allow.

The regulations do require the HACM to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of

bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the HACM is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the HACM. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

The HACM does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)

- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the HACM to approve a shorter initial lease term if certain conditions are met.

The HACM will approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The HACM may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The HACM may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the HACM chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

The HACM will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the HACM's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

The HACM permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

HACM Review of Lease

The HACM will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, the HACM will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The HACM will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, the HACM will attempt to communicate with the owner and family by phone, fax, or email. The HACM will use mail when the parties can't be reached by phone, fax, or email.

The HACM is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the HACM determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

The HACM will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the HACM must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the HACM must ensure that all required actions and determinations; discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the HACM and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the HACM, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

The HACM will complete its determination within 14 calendar days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the HACM, the HACM will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The HACM will not accept corrections over the phone.

If the HACM determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The HACM will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the HACM will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the HACM and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the HACM agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the HACM has given approval for the family of the assisted tenancy, the owner and the HACM execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The HACM is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The HACM must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The HACM may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the HACM will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the HACM may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HACM. The HACM will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the HACM will execute the HAP contract. The HACM will not execute the HAP contract until the owner has submitted IRS form W-9. The HACM will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the HACM a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HACM approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the HACM has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the HACM of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The HACM will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is <u>not</u> found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, the HACM will determine whether the requested increase is reasonable within 14 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the HACM of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and HACM policies governing moves within or outside the HACM's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the HACM's HCV program, whether the family moves to another unit within the HACM's jurisdiction or to a unit outside the HACM's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the HACM's jurisdiction. This part also covers the special responsibilities that the HACM has under portability regulations and procedures.

PART I. MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the HACM a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the ection 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit"
  [Pub.L. 109-162]
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the HACM a copy of the termination agreement.
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the

family [24 CFR 982.314(b)(2)]. The family must give the HACM a copy of any owner eviction notice [24 CFR 982.551(g)].

- The HACM has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The HACM determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the HACM must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HACM must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACM gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a HACM may deny a family permission to move and two ways in which a HACM may restrict moves by a family.

Denial of Moves

HUD regulations permit the HACM to deny a family permission to move under the following conditions:

Insufficient Funding

The HACM may deny a family permission to move if the HACM does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

The HACM will deny a family permission to move on grounds that the HACM does not have sufficient funding for continued assistance if:

- The move is initiated by the family, not the owner or the HACM; and
- The HACM can demonstrate that the move will, in fact, result in higher subsidy costs.
- The HACM can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the HACM's jurisdiction as well as to moves outside under portability.

Grounds for Denial or Termination of Assistance

The HACM has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking,- and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub.L. 109-162]

If the HACM has grounds for denying or terminating a family's assistance, the HACM will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the HACM to prohibit any elective move by a participant family during the family's initial lease term. They also permit the HACM to prohibit more than one elective move by a participant family during any 12-month period.

- The HACM will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HACM's jurisdiction or outside it under portability. If the lease executed is on a month to month, the family will not be allowed to move for a 12-month period.
- Families will not be permitted to move outside the HACM's jurisdiction under portability procedures during the initial year of assisted occupancy if they were living outside of Monterey County when they submitted their housing application. These applicants will be required to reside in Monterey County for the first year of their participation in the HCV Program.
- The HACM will also deny a family permission to make more than one elective move during any 12-month period at their recertification date. This policy applies to all assisted families residing in the HACM's jurisdiction.
- The HACM will deny the family permission to move if the family has violated a family obligation or the family owes money to the HACM or any other HA.

The HACM may consider exceptions to these policies for the following reason:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, when units get sold, unit does not meet the HQS, domestic violence, witness protection programs).

In addition, the HACM may allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities. (See Chapter 2)

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the HACM and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the HACM's jurisdiction under portability, the notice to the HACM must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

Upon receipt of a family's notification that it wishes to move, the HACM will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-

I.A and 10-I.B. An appointment will be scheduled with the family to update necessary paperwork.

Reexamination of Family Income and Composition

For families approved to move to a new unit within the HACM's jurisdiction, the HACM will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the HACM's jurisdiction under portability, the HACM will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

For families approved to move to a new unit within the HACM's jurisdiction, the HACM will issue a new voucher. No briefing is required for these families. The HACM will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HACM approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HACM's jurisdiction under portability, the HACM will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the HACM may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a HACM administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one HA and uses it to lease a unit in the jurisdiction of another HA is known as portability. The first HA is called the **initial HA.** The second is called the **receiving HA.**

The receiving HA has the option of administering the family's voucher for the initial HA or absorbing the family into its own program. Under the first option, the receiving HA bills the initial HA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving HA pays for the family's assistance out of its own program funds, and the initial HA has no further relationship with the family.

The same HA commonly acts as the initial HA for some families and as the receiving HA for others. Each role involves different responsibilities. The HA will follow the rules and policies in section 10-II.B when it is acting as the initial HA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving HA for a family.

10-II.B. INITIAL HA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one HA administering a voucher program [24 CFR 982.353(b)]. If there is more than one HA in the area, the initial HA may choose the receiving HA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the HA's jurisdiction under portability. The initial HA, in accordance with HUD regulations and HA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the HACM's jurisdiction under portability. However, HUD gives the HACM discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family:

- Insufficient funding, and
- Grounds for denial or termination of assistance.

In determining whether or not to deny an applicant family permission to move under portability because the HACM lacks sufficient funding or has grounds for denying assistance to the family, the initial HA will follow the policies established in section 10-I.B of this chapter.

In addition, the HACM may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

If neither the head of household nor the spouse/co head of an applicant family had a domicile (legal residence) in the HACM's jurisdiction at the time the family's application for assistance was submitted, the family must live in the HACM's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The HACM may consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving HA. [24 CFR 982.353(c)(3)].

Participant Families

The Initial HA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).] VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

The HACM will determine whether a participant family may move out of the HACM's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The HACM will notify the family of its determination in accordance with the approval policy set forth in section 10-II.B of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial HA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the HACM must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

For a participant family approved to move out of its jurisdiction under portability, the HACM generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HACM will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the HACM to provide information on portability to all applicant families that qualify to lease a unit outside the HACM's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

No formal briefing will be required for a participant family wishing to move outside the HACM's jurisdiction under portability. However, the HACM will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The HACM will provide the name, address, and phone of the contact for the HA in the jurisdiction to which they wish to move. The HACM will advise the family that they will be under the RHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the HACM will follow the

regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

For families approved to move under portability, the HACM will issue a new voucher within 14 calendar days of the HACM's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

The HACM will approve no extensions to a voucher issued to an applicant or participant family porting out of the HACM's jurisdiction except under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving HA;
- The family decides to return to the initial HA's jurisdiction and search for a unit there; or
- The family decides to search for a unit in a third HA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial HA's voucher program, a family that moves to another HA's jurisdiction under portability must be under HAP contract in the receiving HA's jurisdiction within 60 days following the expiration date of the initial HA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving HA

After approving a family's request to move under portability, the initial HA must promptly notify the receiving HA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial HA must contact the receiving HA directly on the family's behalf [Notice PIH 2004-12]. The initial HA must also advise the family how to contact and request assistance from the receiving HA [24 CFR 982.355(c)(2)].

Because the portability process is time-sensitive, the HACM will notify the receiving HA by phone, fax, or e-mail to expect the family. The initial HA will also ask the receiving HA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The HACM will pass this information along to the family. The HACM will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving HA

The initial HA is required to send the receiving HA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]

- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

In addition to these documents, the HACM will provide the following information, if available, to the receiving HA:

- Social security numbers (SSNs)
- Documentation of SSNs for all family members age 6 and over
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program
- The HACM will notify the family in writing regarding any information provided to the receiving HA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2004-12]

When the initial HA sends form HUD-52665 to the receiving HA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving HA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial HA. If the initial HA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving HA to determine the status of the family. If the receiving HA reports that the family is not yet under HAP contract, the initial HA may refuse to accept a late billing submission. If the receiving HA reports that the family is under HAP contract and the receiving HA cannot absorb the family, the initial HA must accept a late billing submission; however, it may report to HUD the receiving HA's failure to comply with the deadline.

If the HACM has not received an initial billing notice from the receiving HA by the deadline specified on form HUD-52665, it will contact the receiving HA by phone, fax, or e-mail on the next business day. If the HA reports that the family is not yet under HAP contract, the HACM will inform the receiving HA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HACM will send the receiving HA a written confirmation of its decision by mail.

The HACM will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving HA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving HA is administering the family's voucher, the initial HA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial HA receives Part II of form HUD-52665 from the receiving HA. Subsequent

payments must be **received** by the receiving HA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving HA is able and willing to accept.

The initial HA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The HACM must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving HAs as well as for families that remain within its jurisdiction.

Annual Updates of Form HUD-50058

If the initial HA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving HA. If the initial HA fails to receive an updated 50058 by the family's annual reexamination date, the initial HA should contact the receiving HA to verify the status of the family.

Subsequent Family Moves

Within the Receiving HA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The initial HA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

If the HACM determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving HAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the HACM's jurisdiction.

Outside the Receiving HA's Jurisdiction [Notice PIH 2004-12]

If the initial HA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving HA's jurisdiction, the initial HA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving HA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving HA. Any extensions of the initial HA voucher necessary to allow the family additional search-time to return to the initial HA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial HA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial HA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving HA, the initial HA may act on those grounds at any time. (For HACM policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving HA's jurisdiction under portability, the receiving HA must provide assistance for the family [24 CFR 982.355(10)].

The receiving HA's procedures and preferences for selection among eligible applicants do not apply, and the receiving HA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the

receiving HA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving HA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the HACM's jurisdiction under portability, the family is responsible for promptly contacting the HACM and complying with the HACM's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial HA has expired, the receiving HA does not process the family's paperwork but instead refers the family back to the initial HA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving HA, the receiving HA must promptly inform the initial HA whether the receiving HA will bill the initial HA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the HACM initially bills the initial HA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

Within 14 calendar days after a portable family requests assistance, the receiving HA will notify the initial HA whether it intends to bill the receiving HA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving HA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving HA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

The HACM will not require the family to attend a briefing. The HACM will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the HACM's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving HA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving HA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving HA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial HA's voucher program [24 CFR 982.355(c)(1)].

For any family moving into its jurisdiction under portability, the HACM will conduct a new reexamination of family income and composition. However, the HACM will not delay issuing the family a voucher for this reason. Nor will the HACM delay approving a unit for the family

until the reexamination process is complete unless the family is an applicant and the HACM cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the HACM will rely upon any verifications provided by the initial HA to the extent that they:

- Accurately reflect the family's current circumstances; and
- Were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving HA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving HA during the term of the receiving HA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving HA to issue the voucher within two weeks after receiving the family's paperwork from the initial HA if the information is in order, the family has contacted the receiving HA, and the family complies with the receiving HA's procedures [Notice PIH 2004-12].

When a family ports into its jurisdiction, the HACM will issue the family a voucher based on the paperwork provided by the initial HA unless the family's paperwork from the initial HA is incomplete, the family's voucher from the initial HA has expired or the family does not comply with the HACM's procedures. The HACM will update the family's information when verification has been completed.

Voucher Term

The term of the receiving HA's voucher may not expire before the term of the initial HA's voucher [24 CFR 982.355(c)(6)].

The receiving HA's voucher will expire on the same date as the initial HA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The receiving HA may provide additional search time to the family beyond the expiration date of the initial HA's voucher; however, if it does so, it must inform the initial HA of the extension. It must also bear in mind the billing deadline provided by the initial HA. Unless willing and able to absorb the family, the receiving HA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial HA.

The HACM generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACM plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The HACM will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial HA

The receiving HA must promptly notify the initial HA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving HA's voucher [24 CFR 982.355(c)(8)]. The receiving HA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving HA but instead wishes to return to the initial HA's jurisdiction or to search in another jurisdiction, the receiving HA must refer the family back to the initial HA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial HA. Any extension of search time provided by the receiving HA's voucher is only valid for the family's search in the receiving HA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving HA intends to administer the family's voucher, the receiving HA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving HA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial HA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving HA must be attached to the initial billing notice. The receiving HA may send these documents by mail, fax, or e-mail.

The HACM will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving HA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial HACM is willing to accept the late submission or (b) HUD requires the initial HACM to honor the late submission (e.g., because the receiving HA is over leased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The receiving HA must send the initial HA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving HA is billing the initial HA on behalf of the family, regardless of whether there is a change in the billing amount.

The HACM will send a copy of the updated HUD-50058 by regular mail at the same time the HACM and owner are notified of the reexamination results.

Change in Billing Amount. The receiving HA is required to notify the initial HA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments

- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial HA with advance notice of the change. Under no circumstances should the notification be later than 14 calendar days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial HA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving HA must promptly notify the initial HA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving HA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving HA. If the initial HA fails to correct the problem by the second month following the notification, the receiving HA may request by memorandum to the director of the OPH with jurisdiction over the receiving HA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the HAs on the matter must be attached. The receiving HA must send a copy of the memorandum to the initial HA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial HA is still responsible for any outstanding payments due to the receiving HA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving HA has received billing payments for billing arrangements no longer in effect, the receiving HA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial HA.

In the event that HUD determines billing payments have continued for at least three months because the receiving HA failed to notify the initial HA that the billing arrangement was terminated, the receiving HA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial HA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving HA of the date and the amount of reimbursement to the initial HA.

At HUD's discretion, the receiving HA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving HA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the HACM should provide adequate notice of the effective date to the initial HA to avoid having to return a payment. In no event should the receiving HA fail to

notify the initial HA later than 14 calendar days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

If the HACM elects to deny or terminate assistance for a portable family, the HACM will notify the initial HA within 14 calendar days after the informal review or hearing if the denial or termination is upheld. The HACM will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving HA will furnish the initial HA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving HA may absorb an incoming portable family into its own program when the HA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the HACM has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving HA absorbs a family from the point of admission, the admission will be counted against the income-targeting obligation of the receiving HA [24 CFR 982.201(b)(2)(vii)].

If the receiving HA absorbs a family after providing assistance for the family under a billing arrangement with the initial HA, HUD encourages the receiving HA to provide adequate advance notice to the initial HA to avoid having to return an overpayment. The receiving HA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

If the HACM decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACM will notify the initial HA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HACM decides to absorb a family after that, it will provide the initial HA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving HA's voucher program [24 CFR 982.355(d)], and the receiving HA becomes the initial HA in any subsequent moves by the family under portability.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The HACM is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and HACM policies concerning reexaminations are presented in three parts:

> Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
>
> Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
>
> Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The HACM must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The HACM must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

The HACM will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the HACM will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the HACM will perform a new annual reexamination and that will be their new anniversary date.

The HACM also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The HACM is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HACM.

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACM to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be provided at the interview.

If the family is unable to keep a scheduled interview, the family should contact the HACM in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the HACM will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACM approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the HACM must execute a certification attesting to the role and assistance of any such third party.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the HACM regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Families will be asked to provide all required information (as described in the reexamination notice) at the reexamination appointment. The required information will include the Personal Declaration, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 14 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the HACM must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. The HACM will provide a landlord referral list of available units to assist the family in their search. If an acceptable unit is available for rental by the family, the HACM must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. EFFECTIVE DATES

The HACM must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the HACM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACM, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the HACM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACM.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HACM by the date specified, and this delay prevents the HACM from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and HACM policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the HACM must process interim reexaminations to reflect those changes. HUD regulations also permit the HACM to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The HACM must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and HACM policies describing what changes families are required to report, what changes families may choose to report, and how the HACM will process both HACM- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The HACM must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the HACM has limited discretion in this area.

The HACM will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members <u>Not</u> Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACM approval. However, the family is required to promptly notify the HACM of the addition [24 CFR 982.551(h)(2)].

The family must inform the HACM of the birth, adoption or court-awarded custody of a child within 14 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HACM approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the HACM must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the HACM must issue the family a new voucher, give the family a

copy of the most recent landlord referral listing and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACM must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

Families must request HACM approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 30 cumulative days, within a twelve-month period, and therefore no longer qualifies as a "guest." Requests must be approved by the HACM prior to the individual moving in the unit.

The HACM will not approve the addition of a new family or household member unless the individual meets the HACM's eligibility criteria (see Chapter 3).

The HACM will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the HACM determines an individual meets the HACM's eligibility criteria as defined in Chapter 3, the HACM will provide approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the HACM will explain that the family will be issued another voucher and will be required to move.

If the HACM determines that an individual does not meet the HACM's eligibility criteria as defined in Chapter 3, the HACM will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The HACM will make its determination within 14 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the HACM if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the HACM also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a household member ceases to reside in the unit, the family must inform the HACM within 14 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HACM within 14 calendar days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the HACM has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the HACM may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

HACM-Initiated Interim Reexaminations

HACM-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the HACM. They are not scheduled because of changes reported by the family.

The HACM will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the HACM will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phased-in period).
- If the family has reported zero income, the HACM will schedule an office appointment to conduct an interim reexamination every 30 days by having the family submit a completed Zero Income Verification form as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HACM will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HACM will conduct an interim reexamination if the difference in income exceeds $200 threshold.

The HACM may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The HACM must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the HACM the freedom to determine the circumstances under which families will be required to report changes affecting income.

Families are required to report all increases in earned income, including new employment, within 14 calendar days of the date the change takes effect.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The HACM must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify the HACM of changes either orally or in writing. If the family provides oral notice, the HACM will also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the HACM determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HACM will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from the HACM. This time frame may be extended for good cause with HACM approval. The HACM will accept required documentation by mail, by fax, or in person.

Effective Dates

The HACM must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice

  to the family.

- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the HACM must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic

policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the HACM's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the HACM changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the HACM's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

- If the payment standard amount has *increased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.

- If the payment standard amount has *decreased,* the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the HACM's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the HACM's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the HACM must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the HACM must use the HACM current utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The HACM must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the HACM's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

If the family requests an informal hearing, the notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the HACM may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HACM may discover errors made by the HACM. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a HACM can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the HACM based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the HACM may consider in lieu of termination, the criteria the HACM must use when deciding what action to take, and the steps the HACM must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the HACM to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the HACM to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HACM.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of HACM subsidy goes down. If the amount of HCV assistance provided by the HACM drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HACM of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the HACM terminate the family's assistance at any time.

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, the HACM will follow the notice requirements in Section 12-II.E.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the HACM to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

The HACM must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

> If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations, but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the HACM will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C. and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The HACM must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The HACM must terminate assistance if;

1. A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
2. A family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
3. A family member, as determined by the HACM, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For 3 above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

The HACM must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The HACM must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the HACM to establish policies that permit the HACM to terminate assistance if the HACM determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

The HACM will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACM will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous six months.

The HACM will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the HACM will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HACM may, on a case-by-case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity* [24 CFR 5.100]**

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

The HACM will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The HACM will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the HACM will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HACM may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]

HUD permits the HACM to terminate assistance under a number of other circumstances. It is left to the discretion of the HACM whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

The HACM will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency.

The HACM **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related HACM policies.
- If the family fails to fulfill its obligation under the Section 8 Welfare-to-Work.
- Any family member has been evicted from federally assisted housing in the last five years for serious violation of the lease or program.
- Any HA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
- The family currently owes rent or other amounts to any HA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any HA for amounts the HA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the HACM.

- A family member has engaged in or threatened violent or abusive behavior toward HACM personnel. *Abusive or violent behavior towards HACM personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the HACM will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HACM may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The HACM must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

A family being absent for a period over 30 days must notify the HACM in accordance with the following:

- Planned absences – The family must provide 14 calendar days advance written notice of planned absences (vacations, extended hospital stays or stays in convalescent care facilities)
- Unplanned absences – The family must advise within 14 days if expected to be absent for 30 days or more such as hospital stays, jail or prison sentences.

Family must include reason for the absence, the anticipated date of return to the unit, address and telephone number where the family can be reached, and date of return or reason if unable to anticipate a date of return to the unit. The family may only have one long-term absence of 180 days away from the unit per year.

If the family's HAP contract was terminated for an absence which include, but are not limited to, hospitalization, convalescent care, or disability (excluding incarceration), the family may submit a new RTA or request readmission or resumption of assistance for the previously assisted unit if the family is recertified and able to return to the unit prior to the expiration of the voucher.

If the family is absent from the unit for more than 180 consecutive calendar days, the families assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

Insufficient Funding [24 CFR 982.454]

The HACM may terminate HAP contracts if the HACM determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The HACM will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the HACM determines there is a

shortage of funding, prior to terminating any HAP contracts, the HACM will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HACM will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the HACM will inform the local HUD field office. The HACM will terminate the minimum number needed in order to reduce HAP costs to a level within the HACM's annual budget authority.

If the HACM must terminate HAP contracts due to insufficient funding, the HACM will do so in accordance with the following criteria and instructions:

- Those HAPs with the most recent dates on new admissions will be terminated first.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The HACM is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the HACM the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the HACM may choose to take when it has discretion, and outlines the criteria the HACM will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the HACM terminates assistance depends upon individual circumstances. HUD permits the HACM to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the HACM may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HACM request to include notarized statement/self-certification.

Repayment of Family Debts

If a family owes amounts to the HACM, as a condition of continued assistance, the HACM will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HACM of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the HACM to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

The HACM will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The HACM is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

The HACM will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The HACM will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the HACM's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the HACM will determine whether the behavior is related to the disability. If so, upon the family's request, the HACM will determine whether alternative measures are appropriate as a reasonable accommodation. The HACM will only consider

accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 109-162, Pub.L. 109-271]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives PHAs the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

Victim Documentation

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HACM will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

> A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and
>
> One of the following:
>
> A police or court record documenting the actual or threatened abuse, or
>
> A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.
>
> The required certification and supporting documentation must be submitted to the HACM within 14 calendar days after the HACM issues their written request. The 14-day deadline may be extended at the HACM's discretion. If the individual does not provide the required certification and supporting documentation within 14 calendar days, or the approved extension period, the HACM may proceed with assistance termination.

If the PHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, the PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the HACM chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

HACM Policy

When the actions of a participant or other family member result in a HACM decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the HACM will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, the HACM will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, the HACM will proceed with termination of the family's assistance.

If the HACM can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, the HACM will bypass the standard process and proceed with the immediate termination of the family's assistance.

HACM Confidentiality Requirements

All information provided to the HACM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the HACM must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing as described in Chapter 16

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

When termination is initiated by the HACM, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HACM, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the HACM learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the HACM (see section 12-I.C.). The HACM will then send a confirmation notice to the family and the owner within 14 calendar days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The HACM must terminate assistance if;

1. A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status;
2. Evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or
3. The HACM determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the HACM either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the HACM is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease. However, the HACM's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the HACM a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the HACM a copy of any eviction notice (see Chapter 5).

If the eviction action is finalized in court, the owner must provide the HACM with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the HACM has no other grounds for termination of assistance, the HACM may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the HACM or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the HACM or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.

- The family must allow the HACM to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

The HACM will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the HACM and the owner before moving out of the unit or terminating the lease.

<u>The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HACM at the same time the owner is notified.</u>

- The family must promptly give the HACM a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- The composition of the assisted family residing in the unit must be approved by the HACM. The family must promptly notify the HACM in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACM approval to add any other family member as an occupant of the unit.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HACM will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the HACM in writing if any family member no longer lives in the unit.
- If the HACM has given approval, a foster child or a live-in aide may reside in the unit. The HACM has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACM consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by the HACM to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the HACM when the family is absent from the unit.

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HACM at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and HACM policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and HACM policies related to alcohol abuse.

- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACM has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

> Part I: Owners in the HCV Program. This part discusses the role of an owner in the HACM's HCV program and highlights key owner rights and responsibilities.
>
> Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the HACM and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including HACM policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

Housing Authorities are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the Housing Authority's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the HACM to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the HACM's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, HACMs must identify and recruit new owners to participate in the program.

The HACM will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HACM will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers;
- Contacting property owners and managers by phone or in-person; and
- Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the HACM must also provide the kind of customer service that will encourage participating owners to remain active in the program.

All HACM activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HACM will provide owners with a handbook that explains the program, including HUD and HACM policies and procedures, in easy-to-understand language.

The HACM will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HACM contact person.
- Coordinating inspection and leasing activities between the HACM, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the HACM to aid families in their housing search by providing the family with a list of landlords or other parties known to the HACM who may be willing to lease a unit to the family, or to help the family find a unit. Although the HACM cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the HACM their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACM. The HACM will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The HACM has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the HACM, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The HACM will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The HACM must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the HACM must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly-adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The HACM and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, PUB. L. 109-162]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit

- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the HACM information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the HACM), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

The HACM does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HACM may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The HACM must not approve the assisted tenancy if the HACM has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the HACM not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The HACM must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The HACM may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The HACM must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the HACM (except a participant commissioner)

- Any employee of the HACM, or any contractor, subcontractor or agent of the HACM, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The HACM must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the HACM must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the HACM, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the HACM or assistance under the HCV program for an eligible HACM employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the HACM, description of the nature of the investment, including disclosure/divestiture plans.

Where the HACM has requested a conflict of interest waiver, the HACM may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, the HACM will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the HACM, at the HACM's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the HACM disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

The HACM will refuse to approve a request for tenancy if the HACM becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity; or
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents;
- Threatens the health or safety of other residents, of employees of the HACM, or of owner employees or other persons engaged in management of the housing;
- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the HACM will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the HACM may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents HACM policy on legal ownership of a dwelling unit to be assisted under the HCV program.

- Signature on the contract and RTA is the lessors validation that he/she/they are the legal owners or the authorized agent to represent the legal owner.
- The HACM will require proof of ownership (e.g., deed of trust, proof of taxes for most recent year) if the HACM has received information or suspects the lessor is not the legal owner or authorized agent assigned by the legal owner.

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the HACM.

The owner must cooperate with the HACM and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the HACM.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the HACM and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the HACM's obligations. Under the HAP contract, the HACM agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the HACM's HCV program.

If the HACM has given approval for the family of the assisted tenancy, the owner and the HACM execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment,

utilities and appliances to be supplied by owner and tenant, signatures of HACM and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, HACMs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. HACM policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, HACMs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the HACM is deemed received by the owner (e.g., upon mailing by the HACM or actual receipt by the owner).

The HACM has not adopted a policy that defines when the housing assistance payment by the HACM is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- HACM Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- HACM and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the HACM. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the HACM must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The HACM must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the HACM is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the HACM HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the HACM is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the HACM, the excess amount must be returned immediately. If the HACM determines that the owner is not entitled to all or a portion of the HAP, the HACM may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the HACM, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The HACM is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the HACM fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if;

- The penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants;
- It is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and
- The owner charges the assisted family for late payment of the family's share of the rent.

The HACM is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the HACM's control. In addition, late payment penalties are not required if the HACM intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The HACM must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the HACM must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The owner must inform the HACM when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HACM when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HACM with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HACM will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the HACM of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS

- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation ns for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the HACM determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The HACM rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The HACM may also obtain additional relief by judicial order or action.

The HACM must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The HACM must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

Before the HACM invokes a remedy against an owner, the HACM will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the HACM will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HACM will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The HACM terminates the HAP contract;
- The HACM terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;

- 180 calendar days have elapsed since the HACM made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the HACM;
- The Annual Contributions Contract (ACC) between the HACM and HUD expires; or
- The HACM elects to terminate the HAP contract.

The HACM may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the HACM terminates the HAP contract, the HACM must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACM gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the HACM any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the HACM.

An owner under a HAP contract must notify the HACM in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the HACM.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the HACM finds acceptable. The new owner must provide the HACM with a copy of the executed agreement.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The HACM must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 14 calendar days of receiving the owner's request, the HACM will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the HACM that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the HACM will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the HACM will process the leasing in accordance with the policies in chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The HACM is committed to ensuring that subsidy funds made available to the HACM are spent in accordance with HUD requirements.

This chapter covers HUD and HACM policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

> Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HACM policies related to preventing, detecting, and investigating errors and program abuse.
>
> Part II: Corrective Measures and Penalties. This part describes the corrective measures the HACM must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

The HACM anticipates that the vast majority of families, owners, and HACM employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the HACM's HCV program is administered effectively and according to the highest ethical and legal standards, the HACM will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HACM will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The HACM will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The HACM will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key HACM forms and form letters that request information from a family or owner.

HACM staff will be required to review and explain the contents of all HUD- and HACM-required forms prior to requesting family member signatures.

The HACM will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The HACM will provide each HACM employee with the necessary training on program rules and the organization's standards of conduct and ethics.

> For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the HACM will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the HACM to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, the HACM will employ a variety of methods to detect errors and program abuse.

The HACM routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The HACM will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all HAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HACM activities and notifies the HACM of errors and potential cases of program abuse.

The HACM will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HACM's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The HACM will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the HACM will investigate

The HACM will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HACM to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The HACM will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The HACM may investigate possible instances of error or abuse using all available HACM and public records. If necessary, the HACM will require HCV families to give consent to the release of additional information.

Analysis and Findings

The HACM will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the HACM will determine:

- Whether an error or program abuse has occurred
- Whether any amount of money is owed the HACM, and
- What corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the HACM will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the HACM will take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members;
- Any special circumstances surrounding the case;
- Any mitigating circumstances related to the disability of a family member; and
- The effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the HACM will take into consideration:

- The seriousness of the offense;
- The length of time since the violation has occurred; and
- The effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

The HACM will inform the relevant party in writing of its findings and remedies within 14 calendar days of the conclusion of the investigation. The notice will include:

- A description of the error or program abuse;
- The basis on which the HACM determined the error or program abuses;

- The remedies to be employed; and
- The family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER OR OVERPAYMENTS

A subsidy under or overpayment includes:

- An incorrect housing assistance payment to the owner;
- An incorrect family share established for the family; and
- An incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the HACM must promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the HACM or the HACM is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the HACM to use incorrect information provided by a third party.

Family Reimbursement to HACM [HCV GB pp. 22-12 to 22-13]

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HACM may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the HACM will terminate the family's assistance in accordance with the policies in Chapter 12.

HACM Reimbursement to Family [HCV GB p. 22-12]

The HACM will not reimburse the family for any underpayment of assistance when the family clearly causes the underpayment.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the HACM [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the HACM for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the HACM Board of Commissioners, employees, contractors, or other HACM representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HACM on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g. income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income); or
- Admission of program abuse by an adult family member

The HACM may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the HACM may, at its discretion, impose any of the following remedies.

- The HACM may require the family to repay excess subsidy amounts paid by the HACM, as described earlier in this section.
- The HACM may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The HACM may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The HACM may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the HACM

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the HACM any excess subsidy received. The HACM may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the HACM may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

In cases where the owner has received excess subsidy, the HACM will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the HACM [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:
- Any of the following will be considered evidence of owner program abuse:
- Charging the family rent above or below the amount specified by the HACM
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the HACM Board of Commissioners, employees, contractors, or other HACM representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HACM
- Residing in the unit with an assisted family

Remedies and Penalties

When the HACM determines that the owner has committed program abuse, the HACM may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any HACM programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. HACM-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACM staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HACM staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the HACM personnel policy.

HACM-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the HACM

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by HACM staff [HCV GB. 22-12].

HACM Reimbursement to Family or Owner

The HACM must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the HACM's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

Any of the following will be considered evidence of program abuse by HACM staff:

- Failing to comply with any HCV program requirements for personal gain;
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the HACM;
- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of HACM activities, policies, or practices misappropriating or misusing HCV funds;

- Destroying, concealing, removing, or inappropriately using any records related to the HCV program; or
- Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. CRIMINAL PROSECUTION

When the HACM determines that program abuse by an owner, family, or HACM staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HACM will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The HACM may retain a portion of program fraud losses that the HACM recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The HACM must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the HACM to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the HACM incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the HACM related to the collection, these costs must be deducted from the amount retained by the HACM.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The HACM may permit a family to use any of the special housing types discussed in this chapter. However, the HACM is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that HACMs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The HACM also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

Families will be permitted to use any special housing types.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I. SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the HACM's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
- *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security*: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II. CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the HACM, a family member or live-in aide may reside with the elderly person or person with disabilities. The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the HACM must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the HACM must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

> Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

PART III. GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the HACM, a live-in aide may live in the group home with a person with disabilities. The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the HACM should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
    - Dangerous walks or steps
    - Instability
    - Flooding, poor drainage
    - Septic tank back-ups
    - Sewage hazards
    - Mud slides
    - Abnormal air pollution
    - Smoke or dust
    - Excessive noise
    - Vibrations or vehicular traffic
    - Excessive accumulations of trash
    - Vermin or rodent infestation, and
    - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV. SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the HACM, a live-in aide may reside with the family to care for a person with disabilities. The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the HACM should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The HACM may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART V. COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI. MANUFACTURED HOMES

[24 CFR 982.620 through 982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

1. A family can choose to rent a manufactured home already installed on a space and the HACM must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

2. HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. HACMs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The HACM may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

The HACM must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the HACM must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The HACM must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII. HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The HACM must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a HA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. HACMs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. HACM offers both forms of assistance; a family must choose which form of assistance to receive.

- A single down payment assistance grant or
- Monthly homeownership assistance payments.

The HACM must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the HACM to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The HACM must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The HACM may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the HACM has otherwise opted not to implement a homeownership program.

The HACM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The HACM may also establish additional initial requirements as long as they are described in the HACM administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.

- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The HACM may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the HACM's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the HACM must grant an exemption from the employment requirement if the HACM determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the HACM may limit homeownership assistance to families or purposes defined by the HACM, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the HACM administrative plan.

If the HACM limits the number of families that may participate in the homeownership option, the HACM must establish a system by which to select families to participate.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the HACM must determine that the unit satisfies all of the following requirements:

- The unit must 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.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the HACM and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For HACM-owned units all of the following conditions must be satisfied:
  - The HACM informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a HACM-owned unit is freely selected by the family without HACM pressure or steering;
  - The unit is not ineligible housing;
  - The HACM obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any HACM provided financing. All of these actions must be completed in accordance with program requirements.

The HACM must not approve the unit if the HACM has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL HACM REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The HACM may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the HACM, the HACM may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the HACM. HUD suggests the following topics for the HACM-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the HACM jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The HACM may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The HACM may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the HACM offers a program of ongoing counseling for participants in the homeownership option, the HACM shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the HACM does not use a HUD-approved housing counseling agency to provide the counseling, the HACM should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND HACM DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The HACM may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the HACM has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing,

electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The HACM may not require the family to use an independent inspector selected by the HACM. The independent inspector may not be a HACM employee or contractor, or other person under control of the HACM. However, the HACM may establish standards for qualification of inspectors selected by families under the homeownership option.

The HACM may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the HACM a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the HACM may deny approval of a seller for the same reasons a HACM may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The HACM may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt.

A HA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the HACM may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the HACM the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the HACM or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the HACM or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the HACM before moving out of the home.
- The family must notify the HACM if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different HACMs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of:

- The voucher payment standard minus the total tenant payment, or
- The monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HACM will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The HACM may pay the homeownership assistance payments directly to the family, or at the HACM's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the HACM must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

The HACM must adopt policies for determining the amount of homeownership expenses to be allowed by the HACM in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the HACM to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The HACM allowance for maintenance expenses;
- The HACM allowance for costs of major repairs and replacements;
- The HACM utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the HACM determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the HACM to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The HACM allowance for maintenance expenses;
- The HACM allowance for costs of major repairs and replacements;
- The HACM utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the HACM determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and HACM policies, a family may exercise portability if the receiving HA is administering a voucher homeownership program and accepting new homeownership families. The receiving HA may absorb the family into its voucher program, or bill the initial HA.

The family must attend the briefing and counseling sessions required by the receiving HA. The receiving HA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving HA must promptly notify the initial HA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the HACM.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The HACM may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.

- At any time, the HACM may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the HACM's policy regarding number of moves within a 12-month period.

The HACM must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the HACM may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The HACM may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

The HACM must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the HACM's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the HACM. This part describes policies for recovery of monies that the HACM has overpaid on behalf of families, or to owners, and describes the circumstances under which the HACM will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a HACM.

Part VI: Record-Keeping. All aspects of the program involve certain types of record keeping. This part outlines the privacy rights of applicants and participants and record retention policies the HACM will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the HACM's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the HACM's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The HACM must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a HACM fiscal year. If funds in the administrative fee reserve are not needed to cover HACM administrative expenses, the HACM may use these funds for other housing purposes permitted by Federal, State and local law.

If the HACM has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the HACM to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the HACM Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the HACM's Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the HACM to adapt the program to local conditions. This part discusses how the HACM establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in the HACM's offices during normal business hours and on the HACM web site at www.hamonterey.org.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HACM will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the HACM each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard

quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The HACM must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the HACM's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the HACM may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the HACM is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the HACM must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the HACM to make further adjustments if it determines that rent burdens for assisted families in the HACM's jurisdiction are unacceptably high 24 CFR 982.503(g)].

The HACM will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the HACM will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability**: The HACM will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HACM will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.
- **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HACM will consider increasing the payment standard. In evaluating rent burdens, the HACM will not include families renting a larger unit than their family unit size.
- **Quality of Units Selected**: The HACM will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
- **Changes in Rent to Owner**: The HACM may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.
- **Unit Availability:** The HACM will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.
- **Lease-up Time and Success Rate**: The HACM will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1st of every year unless, based on the proposed FMRs, it appears that one or more of the HACM's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the HACMs payment standards will be effective October 1st instead of January 1st.

If the HACM has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the HACM will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the HACM at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The HACM must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any HACM with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the HACM's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the HACM's payment standard schedule.

When needed as a reasonable accommodation, the HACM may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The HACM may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HACM must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the HACM may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the HACM to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the HACM must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;

- The HACM had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The HACM had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the HACM may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the HACM's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The HACM must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A HACM-established utility allowance schedule is used in determining family share and HACM subsidy. The HACM must maintain a utility allowance schedule for:

(1) All tenant-paid utilities;

(2) The cost of tenant-supplied refrigerators and ranges; and

(3) Other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the HACM must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the HACM must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the HACM about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

The HACM has not included an allowance for air-conditioning in its schedule.

Reasonable Accommodation

HCV program regulations require a HA to approve a utility allowance amount higher than shown on the HACM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HACM will approve an allowance for air-conditioning, even if the HACM has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The HACM must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The HACM must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When the HACM makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

HAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The HACM must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the HACM waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HACM

- General policy issues or class grievances
- A determination of the family unit size under the HACM subsidy standards
- A HACM determination not to grant approval of the tenancy
- A HACM determination that the unit is not in compliance with the HQS
- A HACM determination that the unit is not in accordance with the HQS due to family size or composition

The HACM will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the HACM waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The HACM must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the HACM decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the HACM either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACM's denial of assistance.

Except as provided in Section 3-III.G, the HACM must schedule and send written notice of the informal review within 14 calendar days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the HACM.

The Conflict Resolution and Mediation Center of Monterey County may conduct the Review.

The person conducting the review will make a recommendation to the HACM, but the HACM is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

The HACM must notify the applicant of the Informal Hearing Officer's decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the Hearing Officer will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

- The validity of the evidence. The Hearing Officer will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial and the denial is required by HUD, the HACM will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the HACM will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The HACM will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555 Pub.l. 109-162]

HACMs must offer an informal hearing for certain HACM determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HACM's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the HACM's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HACM policies.

The HACM is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the HACM must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HACM utility allowance schedule
- A determination of the family unit size under the HACM's subsidy standards
- A determination that a voucher program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HACM's subsidy standards, or the HACM determination to deny the family's request for exception from the standards

- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HACM policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the HACM
- General policy issues or class grievances
- Establishment of the HACM schedule of utility allowances for families in the program
- A HACM determination not to approve an extension or suspension of a voucher term
- A HACM determination not to approve a unit or tenancy
- A HACM determination that a unit selected by the applicant is not in compliance with the HQS
- A HACM determination that the unit is not in accordance with HQS because of family size
- A determination by the HACM to exercise or not to exercise any right or remedy against an owner under a HAP contract

The HACM will only offer participants the opportunity for an informal hearing when required by program regulations.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

When the HACM makes a decision that is subject to informal hearing procedures, the HACM must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the HACM must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the HACM's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the HACM makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the HACM.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the HACM's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the HACM's hearing procedures.

Scheduling an Informal Hearing **[24 CFR 982.555(d)]**

When an informal hearing is required, the HACM must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to the HACM either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACM's decision or notice to terminate assistance.

The HACM must schedule and send written notice of the informal hearing to the family within 14 calendar days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, the HACM may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HACM within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HACM will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery **[24 CFR 982.555(e)]**

Participants and the HACM are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HACM documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the HACM does not make the document available for examination on request of the family, the HACM may not rely on the document at the hearing.

The HACM hearing procedures may provide that the HACM must be given the opportunity to examine at the HACM offices before the hearing, any family documents that are directly relevant to the hearing. The HACM must be allowed to copy any such document at the HACM's expense.

If the family does not make the document available for examination on request of the HACM, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of HACM documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The HACM must be given an opportunity to examine at the HACM offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the HACM will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

***Participants Right to Bring Counsel* [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer* [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the HACM, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

The HACM has designated the Conflict Resolution and Mediation Center of Monterey County to conduct Informal Hearings.

All persons requesting an Informal Hearing must complete a "Request For Informal Hearing," which will be provided by the Housing Authority. The completed form must then be mailed within 14 calendar days by the assisted family to the "Conflict Resolution and Mediation Center of Monterey County," at: 2560 Garden Road, Monterey, CA 93940 - TEL: 649-6110 or 424-4694.

The Hearing Officer will be appointed by the "Conflict Resolution and Mediation Center," and will schedule the date, time, place, and notify all parties of the hearing.

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A HACM representative(s) and any witnesses for the HACM
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the HACM as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the HACM's hearing procedures [24 CFR 982.555(4)(ii)].

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

***Evidence* [24 CFR 982.555(e)(5)]**

The HACM and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing, which is relevant to the case, for example, a letter written to the HACM. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the HACM or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

***Hearing Officer's Decision* [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

- **HACM Notice to the Family**: The hearing officer will determine if the reasons for the HACM's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if the HACM and the family were given the opportunity to examine any relevant documents in accordance with HACM policy.

- **HACM Evidence to Support the HACM Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HACM's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HACM policies. If the grounds for termination are not specified in the regulations or in compliance with HACM policies, then the decision of the HACM will be overturned.

The hearing officer will issue a written decision to the family and the HACM no later than 14 calendar days after the hearing. The report will contain the following information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the HACM representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HACM's decision.

Order: The hearing report will include a statement of whether the HACM's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HACM to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the HACM to restore the participant's program status.

Procedures for Rehearing or Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HACM will take effect and another hearing will not be granted.

In addition, within 14 calendar days after the date the hearing officer's report is mailed to the HACM and the participant, the HACM or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing

officer and to the other party within the 14 calendar-day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the HACM to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

***HACM Notice of Final Decision* [24 CFR 982.555(f)]**

The HACM is not bound by the decision of the hearing officer for matters in which the HACM is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the HACM determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the HACM must promptly notify the family of the determination and the reason for the determination.

The HACM will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the HACM's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HACM hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HACM informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.

- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HACM either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the HACM receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HACM must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the HACM with a copy of the written request for appeal and the proof of mailing.

The HACM will notify the family in writing of the results of the USCIS secondary verification within 14 calendar days of receiving the results.

The family must provide the HACM with a copy of the written request for appeal and proof of mailing within 14 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the HACM, of its decision. When the USCIS notifies the HACM of the decision, the HACM must notify the family of its right to request an informal hearing.

The HACM will send written notice to the family of its right to request an informal hearing within 14 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HACM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HACM notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The HACM must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate

of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the HACM pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of HACM documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the HACM, and to confront and cross-examine all witnesses on whose testimony or information the HACM relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the HACM, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The HACM may, but is not required to provide a transcript of the hearing.

The HACM will not provide a transcript of an audio taped hearing.

Hearing Decision

The HACM must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HACM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HACM notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The HACM must retain for a minimum of 5 years the following documents that may have been submitted to the HACM by the family, or provided to the HACM as part of the USCIS appeal or the HACM informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE HACM

16-IV.A. OVERVIEW

HACMs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the HACM [24 CFR 982.54]. This part describes the HACM's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HACM holds the owner or participant liable to return any overpayments to the HACM.

The HACM will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the HACM, the HACM will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-IV.B. REPAYMENT POLICY

Owner Debts to the HACM

Any amount due to the HACM by an owner must be repaid by the owner within 30 days of the HACM determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HACM will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HACM will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACM will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the HACM

Any amount due to the HACM by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the HACM will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACM will terminate the assistance upon notification to the family and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to the HACM in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement and Payment Thresholds

Prior to the execution of a repayment agreement, the owner or family must pay following percentages based on the balance owed to the HACM:

Initial Payment Due

(% Of Total Amount)	Amount Owed	Maximum Term
50%	Up to $500	6 - 9 months
30%	$501 - $1,000	9 - 18 months
20%	$1,001 - $2,500	12 - 36 months
10%	above $2501	72 - months

Execution of the Agreement

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

Non-Payment

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HACM, the HACM will send the family a

delinquency notice giving the family 14 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HACM will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HACM will terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

The HACM will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

Family's request to move

If the family requests a move to another unit and has a payment agreement in place for the payment of an owner claim, and the payment agreement is not in arrears:

- The family will be permitted to move.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the HACM, the HACM will:

- Require the family to pay the balance in full or
- Will terminate the housing assistance

Writing off Debts

Debts will be written off if:

The debtor's whereabouts are unknown and the debt is more than one (1) year old.

Continued efforts to collect have been unsuccessful.

A determination is made that the debtor is judgment proof.

The debtor is deceased.

The debtor is confined to an institution indefinitely or for more than one (1) year.

The amount is less than $150 and the debtor cannot be located.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure HACM performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each HA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the HACM in several ways.

- High-performing HAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- HAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].

- HAs with an overall rating of "troubled" are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, HAs that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a HA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

HACM must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by HACM board resolution and signed by the HACM executive director. If the HACM is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

HAs with less than 250 voucher units are only required to be assessed every other HA fiscal year. HUD will assess such HAs annually if the HA elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 CFR 985.105].

Failure of a HA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

A HA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the HACM's SEMAP certification, HUD will rate the HACM's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The HACM or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the HACM's certification on the indicator due to the HACM's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A HA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the HA has written policies in its administrative plan for selecting applicants from the waiting list and whether the HA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the HA's written policies, according to the HA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the HA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the HA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the HA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the HA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the HA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the HA maintains an up-to-date utility allowance schedule. • Points are based on whether the HA has reviewed the utility allowance schedule and adjusted it when required, according to the HA's certification.
Indicator 5: HQS quality control inspections **Maximum Score: 5** • This indicator shows whether a HA supervisor reinspects a sample of units under contract during the HA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections. • Points are based on whether the required quality control reinspections were completed, according to the HA's certification.
Indicator 6: HQS enforcement **Maximum Score: 10** • This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no

more than 30 calendar days from the inspection or any HA-approved extension.

- Points are based on whether the HA corrects all HQS deficiencies in accordance with required time frames, according to the HA's certification.

Indicator 7: Expanding housing opportunities
Maximum Points: 5

- Only applies to HAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the HA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the HA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the HA has adopted and implemented written policies in accordance with SEMAP requirements, according to the HA's certification.

Indicator 8: FMR limit and payment standards
Maximum Points: 5 points

- This indicator shows whether the HA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the HA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the HA has appropriately adopted a payment standard schedule(s), according to the HA's certification.

Indicator 9: Annual reexaminations
Maximum Points: 10

- This indicator shows whether the HA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations
Maximum Points: 5

- This indicator shows whether the HA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections
Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections
Maximum Points: 10

- This indicator shows whether the HA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that

are more than 2 months overdue, according to data from PIC.
Indicator 13: Lease-up **Maximum Points: 20 points** • This indicator shows whether the HA enters HAP contracts for the number of units or funding reserved under ACC for at least one year. • Points are based on the percent of units leased during the last completed HA fiscal year, or the percent of allocated budget authority that has been expended by the HA, according to data from the HA's last year-end operating statement that is recorded in HUD's accounting system.
Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances **Maximum Points: 10** • Only applies to HAs with mandatory FSS programs. • This indicator shows whether the HA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances. • Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.
Success Rate of Voucher Holders **Maximum Points: 5** • Only applies to HAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full HA fiscal year following the date of HUD approval of success rate payment standard amounts. • This indicator shows whether voucher holders were successful in leasing units with voucher assistance. • Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.
Deconcentration Bonus Indicator **Maximum Points: 5** • Submission of data for this indicator is mandatory for a HA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full HA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile. • Additional points are available to HAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data. • Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The HACM must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HACM must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the HACM must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the HACM must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting HACM budget and financial statements for the program;
- Records to document the basis for HACM determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D. Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

HAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACM staff.

HACM staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HACM may release the information collected.

Enterprise Income Verification (EIV) Records

HAs that access EIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Enterprise Income Verification (EIV) System HACM Security Procedures*, Version 1.2, issued January 2005.

Prior to utilizing HUD's UIV system, the HACM will adopt and implement UIV security procedures required by HUD.

Criminal Records

The HACM may only disclose the criminal conviction records which the HACM receives from a law enforcement agency to officers or employees of the HACM, or to authorized representatives of the HACM who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HACM must establish and implement a system of records management that ensures that any criminal record received by the HACM from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACM action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HACM must establish and implement a system of records management that ensures that any sex offender registration information received by the HACM from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACM action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a HA other than under 24 CFR 5.905.

Medical/Disability Records

HAs are not permitted to inquire about the nature or extent of a person's disability. The HACM may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACM receives a verification document that provides such information, the HACM should not place this information in the tenant file. The HACM should destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The HACM has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting

requirements, and data collection and record keeping responsibilities that the HACM is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The HACM must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

The HACM will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the HACM must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the HACM obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the HACM must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the HACM must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the HACM must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the HACM is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow HAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the HA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the HACM will use to determine whether or not the HACM has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

The HACM will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HACM's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HACM will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The

projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HACM cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACM will be considered to have insufficient funding.

PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-IX.A. NOTIFICATION TO PARTICIPANTS [Pub.L. 109-162]

VAWA requires PHAs to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

The HACM will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the participant of HACM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACM will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

16-IX.B. NOTIFICATION TO APPLICANTS

The HACM will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of HACM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACM will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

Inform property owners and managers of their screening and termination responsibilities related to VAWA. The HACM may utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate in day-to-day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.

Signs in the HACM lobby and/or mass mailings, which include model VAWA certification forms.

Chapter 17

FAMILY UNIFICATION PROGRAM

INTRODUCTION [24 CFR Parts 882 and 982]

This program is designed to promote family unification by providing rental assistance to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separating of children from their families.

PART I: PROGRAM REQUIREMENTS AND PROCEDURES

17-I.A. OVERVIEW

Family Unification eligibility is based on a family fitting the following criteria, Federal Regulation/vol.14, no. 43, dated March 5, 1999.

- The imminent placement of the family's child or children in out-of-home care
- The delay of discharge of a child or children to the family from out-of-home care

17-I.B. DEFINITIONS

For purposes of the Family Unification Program, Family Unification eligible family means a family:

- Whom the public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care, or in the delay of discharge of a child or children to the family from out-of-home care; and
- Whom the Housing Authority has determined is eligible for Section 8 Housing Choice Voucher Assistance.
- Lack of Adequate Housing means a situation in which a family is living in substandard housing, or is, or will be involuntarily displaced from a housing unit.
- Public child welfare agency means the public agency that is responsible under applicable State Law for determining that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

17-I.C. THE ROLE AND RESPONSIBILITIES OF THE HACM IN THE SELECTION OF FAMILIES FOR THE FAMILY UNIFICATION PROGRAM

Determining whether the families referred by the CSD are eligible for any Section 8 Housing Choice Voucher assistance, the HACM does not re-determine eligibility for FUP program.

The HACM will review the existing Section 8 waiting list to identify families that may be eligible for the Family Unification Program. The HACM will continue to review new applicants for the Section 8 program and refer the families on the Section 8 waiting list to the CSD for a determination of whether the family meets eligibility requirements;

- Processing of housing subsidies and distribution to families in the order referred;

- Make changes in administrative and equal opportunity plan where necessary;
- Maintain quality program data for future program evaluation;
- If Section 8 assistance to any FUP family is terminated, the Housing Choice Voucher will be reissued to another eligible family. The HACM guarantees that 50 Section 8 Housing Choice Vouchers will be available for FUP families.
- The HACM will expedite the process for third party verification of a family's income and eligibility to the maximum extent possible. The HACM will complete the third party verification while the family is searching for a unit and will use oral verification where applicable.

17.I.D. THE ROLE AND RESPONSIBILITIES OF THE CHILD WELFARE AGENCY (CSD IN THE CERTIFICATION OF FAMILIES FOR THE FAMILY UNIFICATION PROGRAM)

Establish and implement a system to identify eligible families within the agency's caseload and reviewing referrals from the HACM; CSD is responsible for certifying families eligible for FUP;

Develop procedures for referring FUP eligible families to the HACM and provide written certification to the HACM that a family qualifies for the FUP;

Commit staff to ensure that eligible families are identified and the certification process is completed in a timely manner; and

CSD agrees to maintain relevant data and provide written information as requested for program evaluation.

17.I.E. PROCEDURE FOR USE OF THE HACM WAITING LIST FOR SECTION 8 RENTAL ASSISTANCE

The HACM will first review its list to determine if there are any CSD referred families already on the list who may be eligible.

In those instances where the Housing Authority waiting list is closed, and the waiting lists have been exhausted for FUP families, the HACM may open the list for family Unification Program eligible families only. These families may be referred by the CSD, private service providers or families may refer themselves.

Once a list of FUP eligible families has been made, FUP Housing Choice Vouchers will be disbursed in the rank order of the Section 8 waiting list.

17.I.F. HACM TENANT SELECTION OF FAMILIES

Families on the Eligibility List for the Family Unification Program that also qualify for Section 8 Housing Choice Vouchers will be offered housing based on:

- Their rank order on the Section 8 waiting list, or the order in which they were referred, and;
- Availability of a Family Unification Program Section 8 Housing Choice Voucher of the budget allotment needed;

17-I.G. FAMILY UNIFICATION PROGRAM HEARING/GRIEVANCE PROCEDURE

All persons applying to or enrolled in the Family Unification Program can request an informal hearing from the HACM on their Section 8 application.

The HACM is responsible for defending its eligibility decisions, pertaining to the family's eligibility for Section 8 rental assistance. Section 8 HCV informal hearing procedures will be utilized.

The CSD is responsible for defending its FUP family eligibility determinations

The procedure to be used in these instances shall be the same as currently in effect for Section 8 Participants, as set forth in Chapter 16 of the Administrative Plan.

17.I.H. TERMINATION OF RENTAL ASSISTANCE

The termination of rental assistance shall be in accordance with Chapter 12 of the Administrative Plan.

If Section 8 Assistance for a family under this program is terminated, the Housing Choice Voucher must be reissued to another eligible family under FUP.

Chapter 18

THE FAMILY SELF-SUFFICIENCY PROGRAM (FSS)

INTRODUCTION

The purpose of the Family Self-Sufficiency (FSS) is to establish a relationship between public and private agencies and the Housing Authority of the County of Monterey (HACM) that will enable very low-income families who are eligible to receive assistance under the Section 8 Housing Choice Voucher program to also receive high quality comprehensive supportive services. It is the Housing Authorities intent that these supportive services may in turn enable housing assistance recipients to achieve economic independence and self-sufficiency.

PART I: FSS PROGRAM

18. I.A. OVERVIEW

The ultimate goal is to eliminate the tenant's dependency on welfare assistance and subsidized housing. Various local resources, such as childcare, transportation, etc. will be provided to the FSS program participants. The community services will be coordinated and delivered to the participating families within their five-year contract period. This assistance will position them to obtain the employment and educational training that they require so they can attain self-sufficiency.

18. I.B. STRUCTURE OF THE FSS PROGRAM

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance, Section 8 housing assistance, and other Federal, State, and local subsidies.

The FSS program links participants to high quality, comprehensive supportive services including education, job training, counseling, and other forms of social service assistance necessary to achieve self-sufficiency. A successful FSS program in the County of Monterey will enhance the standard of living and self-esteem of the participants as they become more productive members of the community and are no longer dependent on governmental assistance. All rules and regulations and eligibility requirements of the Section 8 program apply to the FSS participants except where noted.

The Housing Authority of the County of Monterey is fully supportive of the FSS program. The HACM realizes that an effective FSS program will require a combination of flexibility and creativity for participating families, service providers, and HACM staff. The HACM understands that there are both personal and systematic roadblocks to overcome before a family can escape from long-term poverty and gain economic independence. Nonetheless, achievement of the families' goals is possible, and the HACM is committed to the FSS program's efforts.

18. I.C. SUPPORTIVE SERVICES

The HACM will periodically contact agencies providing supportive services to participating families. The Authority will use this contact as a means of measuring the participant's progress. Agency responses will also be used to determine if any of the participants needs are not being met and to work on ways to better serve the program participants.

We believe that, for a motivated client, gainful employment and family stability are attainable within a five- year period. However, the likelihood of success is significantly higher when self-sufficiency is pursued within the context of a system of support services. True economic self-

sufficiency is a goal that clients must continue to pursue long after the completion of the FSS Contract of Participation.

18-I.D. FSS PROGRAM SIZE [24 CFR 984.105 (ii)]

When funding is available, the HACM will enroll eligible applicants or existing Section 8 participants whose eligibility has been determined.

The HACM will not discriminate against otherwise qualified persons because of their disabilities and will make reasonable accommodations to the person's disability to allow participation in the program. The HACM may decide that an accommodation is not reasonable if it causes undue financial and/or administrative burdens.

FSS Coordinator Funding

For continued funding of the FSS Coordinator position for the Housing Authority of the County of Monterey, the Authority will determine the number of mandatory FSS vouchers per HUD regulations [24 CFR 984.105].

FSS Coordinator Position

FSS Coordinator position – To fill a vacant position, there would be advertising placed in the local newspapers serving the community, community job search websites, and the HACM website.

18-I.E. INCENTIVES TO ENCOURAGE PARTICIPATION [24 CFR 984.201 (5)]

The HACM has established many incentives to encourage participation in the FSS program. Listed below are just a few of the inducements being offered to participating families on the FSS program:

Opportunity

The primary incentive given to FSS participants is the opportunity to change the household's social and economic status from one of dependence on subsidies to one of self-sufficiency and self-reliance.

Community Resources

A host of community resource agencies is at the disposal of each program participant to access and utilize on an as-needed basis for training, education, and workshop purposes. Each participant will be linked with job training, educational, and supportive service agencies to provide the supportive services necessary to develop self-sufficiency. FSS families will be provided with information on local homeownership opportunities also.

Escrow Account

An escrow account will be opened for each FSS participant who signs the Contract of Participation (COP). The escrow account will be funded by the families increase in earned income. It will be maintained in accordance with the requirements set forth in 24 CFR 984.305 of the Federal Register published May 27, 1993, 24 CFR Part 905 et al., and Family Self Sufficiency Program Final Rule. The HACM will deposit the FSS account funds of all participating families into a single depository account.

Assurances of Non-Interference with Rights of Non-Participating Families

[24 CFR 984.201 (10)]

Tenant participation in the FSS program is strictly voluntary. Therefore, all tenants will be notified in all literature related to the FSS program should they decide not to participate in the FSS program, it will not affect their Section 8 housing subsidy. The family will retain their right to occupancy according to their lease.

18-I.F OUTREACH EFFORTS FOR FSS PARTICIPANTS [24 CFR 984.103 (2)]

The HACM will recruit potential FSS participants through a variety of modes to ensure high levels of participation and to gain acceptance and support of the FSS program concept in the local community. Therefore, program outreach activities will be targeted primarily to all eligible families on the Section 8 program.

The HACM will provide sufficient information to interested families to allow them to make an informed decision concerning participation in the FSS program. Recruitment activities will include, but are not limited to:

- Mailing informational brochures and/or flyers to all Section 8 recipients including FSS information in related HACM publications.
- Posting FSS information on bulletin boards and providing informational brochures at the HACM office and other social service agencies.
- Providing information regarding the FSS program to caseworkers from other social service agencies.
- Presentations at community meetings as the need arise.
- Promotion through the local media
- Eligible Section 8 recipients may be told of the benefits of the FSS program at the time new vouchers are issued and at each annual re-examination appointment.

Outreach materials will provide basic information on how the FSS program works, what a family needs to do to get involved and a contact person for more information. An explanation of the incentives offered to encourage participation will also be included. Outreach methods and materials will comply with all applicable Fair Housing and Equal Opportunity requirements. As tenant turnover occurs, the FSS Coordinator will provide written information concerning the FSS program to all eligible tenants in the Section 8 Housing Choice Voucher program.

If these measures do not result in sufficient enrollment in the FSS program according to HUD requirements, the HACM will implement additional outreach activities to eligible Section 8 families.

PART II: PARTICIPANT SELECTION PROCESS, IDENTIFYING NEEDS & COMPLETION OF PROGRAM

18-II.A. FAMILY SELECTION PROCEDURES [24 CFR 984.203]

Families selected for participation in the FSS program will consist of eligible recipients of the Housing Choice Voucher Program. Selection will be made without regard to race, color, religion, sex, handicap, familial status, or national origin.

FSS Preferences

The HACM gives an FSS selection preference in the following order:

1. Incoming portable families with active FSS Contracts of Participation in accordance with the Portability section (Chapter 10) of the Section 8 Administrative Plan;
2. Existing Section 8 families;
3. Eligible waitlist applicants.

FSS Enrollment Process: Prospective FSS participants will be given an FSS program application in addition to informational materials describing the program.

Applications: The submission of a completed application form constitutes notification to the HACM of the applicant's interest in the FSS program. Applicants will be placed on an FSS waitlist by the date and time their application was received by the HACM.

In-Take Interviews: Each client that wished to enroll in the FSS program is scheduled for an in-take interview. The potential participant is instructed to complete a Client Profile form and bring it to the in-take interview. FSS staff uses the profile as a starting point in conducting the in-take interview, assessing the client and family's needs, and developing the Individual Training and Service Plan (ITSP).

Motivational Screening: The HACM will use the following as a means of screening for interest and motivation to participate in the FSS program:

- Prompt attendance at the in-take interview.
- Completion of the Client Profile form prior to the interview.
- Completion of assigned tasks as part of the development of the ITSP.

Good Standing: Clients interested in enrolling in the FSS program must be in good standing with the HACM. A client will not be considered for the FSS program if he or she is in violation of a written agreement with the HACM to repay amounts paid to a landlord by the Housing Authority on behalf of the family. A delinquent balance or a pattern of missed payments under an executed repayment agreement will render a client ineligible for the FSS program. A client with an executed repayment agreement and a record of timely payments is considered a client in good standing.

Eligibility: The Housing Authority will consider a family eligible for the FSS program when the following conditions are met:

- The family has submitted an FSS application.
- The family does not owe money to the HACM or any other Housing Authority.
- The family is not in violation of any Section 8 regulations including Housing Quality Standards (HQS).
- The family has completed assessments or assignments required for the purpose of developing an ITSP.
- The family must be willing to pursue the goals of the FSS program and be willing to enter into a contractual agreement with the Housing Authority.

When space is available in the FSS program, the next eligible family on the waitlist will be contacted for an interview with the FSS Coordinator to complete the ITSP and sign a Contract of Participation (COP). Applicants who do not schedule and attend the interview or who are not willing to sign an FSS COP will be taken off the FSS waitlist.

Participation in the FSS program is strictly voluntary. A family's election not to participate in the FSS program will in no way jeopardize their right to occupancy in accordance with their Section 8 program. They will retain their right to tenancy in the Section 8 housing assistance program.

The HACM will consider a family ineligible for the FSS Program under the following conditions:

- The family was terminated from a previous FSS program.
- The family completed the FSS Contract of Participation.
- The family owes money to the HACM.
- The family was previously on the FSS program and was awarded their escrow funds.

Denial of FSS Participation

The HACM may, at its discretion, deny participation in the FSS program to a family that:

Previously participated and was terminated from FSS because they did not meet their FSS obligations as per the COP.

- Does not meet the requirements of the family selection procedures described in the Family Selection Procedures section on page (4) of this document.

Families denied participation in the FSS program may request an informal hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines in this plan. The request for an informal hearing must be made in writing within seven (7) working days of the date of notification of the decision to deny participation.

Equal Opportunity

The HACM will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.

- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as HACM policies, can prohibit discrimination against additional classes of people.

The HACM shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes")

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The HACM will not discriminate on the basis of marital status or sexual orientation.

The HACM will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Treat a person differently in determining eligibility or other requirements for participation in the FSS Program.
- Deny anyone access to the same level of services

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the HACM or an owner, the family should advise the HACM. HUD requires the HACM to make every reasonable attempt to determine whether the applicant or participant's assertions have merit and take any warranted corrective action. In addition, the HACM is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the HACM either orally or in writing.

The HACM will attempt to remedy discrimination complaints made against the HACM.

The HACM will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO). They will also provide them with the Housing Discrimination Hotline 1-800-669-9777.

POLICIES RELATED TO PERSONS WITH DISABILTIES

The HACM must ensure that persons with disabilities have full access to the HACM's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program to include the FSS Program.

The HACM will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HACM, by including the following language:

"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication is available. (831-754-2951)

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HACM staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

The design and construction of HACM facilities readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

18-II.B. IDENTIFICATION OF FAMILY SUPPORT NEEDS

FSS program participants will be required to complete a detailed client profile that will help determine family support needs. After reviewing the response to the client profile, the FSS Coordinator will work with the participant to develop an ITSP tailored to that client. The type of supportive services and resources to be provided to eligible participating families will be based on individual needs. The Housing Authority anticipates that the major needs for services and resources will be in the following categories:

- Education
- Job Training
- Childcare
- Transportation
- Money Management/Financial Strategies
- Homeownership Counseling

With the support of the FSS staff, the client sets his/her own goals. FSS staff is available to provide information, offer guidance, support, suggest options, and make constructive observations about the appropriateness of the client's goals. If there are adult members in the family who are also interested in participating in the FSS program, they will also be interviewed and guided in the development of options and goals.

The Individual Training and Service Plan is developed as a result of discussions between the FSS Coordinator and the perspective participant. Specific goals are identified, defined, and sequenced. The client will receive assistance with mapping out the sequence of interim steps that need to be taken to achieve each goal and to establish realistic target dates for their completion. All goals are concrete, measurable, reasonable, appropriate, and include the mandatory final goal of obtaining and maintaining suitable employment.

In addition to stating the participant's final goals, the ITSP also delineates the supportive services the participant will need in order to meet each short and long- term goal. Just as the participant commits himself/herself to fulfilling the goals specified in the ITSP, the Housing Authority makes a commitment to ensure that the client has access to key services and resources essential to the accomplishment of his/her goals. FSS staff assists in accessing an array of supportive services provided by the network of private, public, and community agencies that have lent their support to the Family Self-Sufficiency program.

Applicants may be required to complete assessments or assignments relating specifically to the development of an ITSP. Assignments may include, but are not limited to:

- Completing career exploration
- Developing a family budget
- Seeking professional assistance for family members with substance abuse, health, or mental health issues.

When finalized, the ITSP becomes an attachment to the COP. Execution of the Contract of Participation enrolls the client in the FSS program.

Communication with the participants is to be conducted in English and in Spanish (as needed). For Limited English Proficient (LEP) applicants, HACM will provide translation services in accordance with HACM's LEP Policy using the language line in place.

Community Resources: A host of community resource agencies is at the disposal of each program participant to use on an as needed basis for training, education, and workshop purposes. Each participant will be linked with job training, educational, and supportive services agencies to provide the services necessary to develop self-sufficiency. FSS families will also be provided with information on local homeownership opportunities.

18-II.C CONTRACT OF PARTICIPATION

Each client entering the FSS program must execute a COP with the Housing Authority. The Contract of Participation (HUD form 52650) is executed after the FSS Coordinator and the client have worked together to identify and prioritize the client's needs and goals. The COP with attached ITSP establishes the terms and conditions governing FSS participation; the rights and responsibilities of the client and the Housing Authority; the services to be provided to the client; and the activities the client agrees to undertake.

The effective date of he COP is the first day of the month after the contract is executed. The contract term is five (5) years. At the request of the family, an extension of up to two (2) years may be granted. Extensions are granted for good cause only and at the HACM sole discretion. If the FSS participant exercises portability and enters another Housing Authority's FSS program, the new contract will be for the term remaining on the initial contract, with the initial income base.

The head of the FSS family signs the Contract of Participation. The head of the FSS family is defined as the head of the client's household for purposes of determining income eligibility and rent. The head of the FSS family need not necessarily be the leaseholder.

The COP must include an ITSP for the FSS client and any family member (18) years or older who chooses to participate in the FSS program. All applicable Individual Training and Service Plans and the COP must be signed by the FSS client (or participating family member), and the

FSS Coordinator. The plan outlines the resources and services the Housing Authority agrees to provide, and it contains clear and specific short and long-term goals with completion dates by which progress toward self-sufficiency can be measured and evaluated. The plan also provides a format for recording each goal the client agrees to fulfill. It will also detail the sequence of steps that must be taken to meet each goal and the services needed to support the client's efforts.

Family Obligations: The ITSP must state the final goal of: 1) obtaining and maintaining suitable employment throughout the contract term; 2) for all members to be free of welfare assistance at least one year before the contract expiration date, including any extensions; and 3) consideration of homeownership.

Head of Household **must:**

- Seek and maintain suitable employment throughout the contract term;
- Complete activities in the ITSP within the specified dates;
- Provide the HACM with information about the family's participation in the FSS program upon request, including information regarding employment, job interviews, training, education, attendance, and other FSS services and activities.

All family members **must:**

- Comply with the terms of the Section 8 program and lease agreement;
- Comply with the family obligations under the Section 8 program; and
- Live in the jurisdiction of the FSS program at lease twelve (12) consecutive months from the effective date of the contract, unless waived by the HACM;
- Be free from welfare assistance at least twelve (12) months prior to the expiration date of the COP.

In order to fulfill the employment requirement, the participant must actively and consistently pursue job opportunities, submit employment applications, attend job interviews, etc. Participants are expected to routinely provide reports to the FSS program on his/her progress in obtaining suitable employment. The suitability of employment is based on the labor market for the area. The HACM is responsible for assessing the suitability of the job(s) the participant is seeking. However, decisions regarding suitability are made with the maximum input and involvement of the participant. Our aim is to help our participants seek and obtain employment that pays the client a "living wage."

Participants whose ITSP contains interim educational goals are required to seek and maintain a suitable job after the contracted course of study is completed. We also encourage participants who are part-time students to seek and obtain a part-time job while in school. The requirements to seek and maintain employment during the term of the FSS contract cannot be met by merely attending school or a training program.

Extensions

The COP may be extended for a period of up two (2) years when the Housing Authority determines that circumstances beyond the family's control prevent the timely completion of the goals in the ITSP. Extensions will only be granted in cases of extenuating circumstances, such as major illness, involuntary job loss, or to allow families to meet the interim goal of independence from welfare assistance for twelve consecutive months prior to graduation. If the client believes

that he/she has a good cause for needing a contract extension, he/she must submit a written request to the Housing Authority **prior** to the expiration date of the COP.

All extensions to the term of the COP will be granted at the sole discretion of the FSS Coordinator and Director of Housing Assistance Programs. If the client is employed and has earned income in excess of the amount stated on the COP, credits will continue to be posted to the client's FSS escrow account during the contract extension.

Modifications

If the Housing Authority and the family mutually agree, the Contract of Participation may be modified in the following areas: content of the ITSP; designation of FSS head of household, and contract term (see Extensions).

The FSS program will make every effort to ensure that all needed support services are provided to the family. If an agency is unable to provide the agreed upon services, the HACM will make a good faith effort to obtain the services from another agency. If that is not possible, we will explore with the client the option of providing an alternative service. If the unavailable services are essential to the family's ability to achieve self-sufficiency, the ITSP will be revised to delete the unavailable services and/or add the alternative services.

If the family circumstances require that the ITSP be amended, the goals and support activities in the plan must be revised in writing, with the revisions signed and dated by the participant and the FSS Coordinator. However, all goal completion dates must be prior to the contract expiration date.

A change in the designated FSS head of household **must** be included as a written attachment to the Contract of Participation, signed and dated by the FSS Coordinator and the new head of the FSS family. If the FSS head of household leaves the home during the contract term, the family member that retains the voucher may be designated the new head of the FSS family. If the new head of the household plans to continue the family's participation in the FSS program, an ITSP will be established for the new head.

As a signatory to the COP, the new head of the FSS family will be required to meet all contract obligations and FSS goals. If the new head of household does not wish to participate in the FSS program, the family's participation will be terminated and the escrow funds will be forfeited.

If an adult member of the household who was participating in FSS leaves the home, that persons ITSP will be deleted from the COP. A written revision to the COP is required for all changes in FSS household composition that involves the development of a new ITSP or deletion of plans for absent family members.

Completion

The Contract of Participation will be considered successfully completed when the family has fulfilled all of its contractual obligations on or before the expiration of the contract term, including any extensions. FSS staff will verify that: 1) the family has been free of welfare assistance for at least one year prior to the contract expiration date; 2) the head of household is suitably employed; and 3) the family has met all of the terms as specified in the COP.

The COP will also be deemed complete when 30% of the family's monthly- adjusted income exceeds or equals the existing Fair Market Rent (FMR) for the applicable unit size. Under this circumstance, the COP could be completed in less than the allotted five-year period.

A family may continue to receive Section 8 assistance following successful completion of the COP. A family remaining on the Section 8 program following successful completion of the FSS program will not be allowed to participate in the FSS program a second time.

The HACM has sole discretion to determine whether the family has successfully completed its Contract of Participation.

Procedures for Graduation

1) FSS Family Responsibility - To successfully graduate from the program, the family must:
   - Demonstrate that all interim and final goals in the COP were completed on or before the expiration date of the contract.
   - Submit verification that all household members are independent of welfare assistance.
   - Submit verification that the head of household is suitably employed.
   - Submit a request for consideration for graduation in writing to the HACM.
2) The HACM Responsibility:
   - The FSS Coordinator and the Director of Housing Assistance Programs (HAP) will review requests for graduation consideration.
   - The HACM will disburse any accumulated escrow funds to the family upon determination of successful graduation.

Denial of Graduation Request

If the HACM determines that a participant did not successfully complete the program requirements, the participant may request an informal hearing to determine whether the decision to deny graduation was made in accordance with HUD regulations and the guidelines in this plan. A request for an informal hearing must be made in writing within ten (10) calendar days of the date of notification of the decision to deny graduation from the FSS program.

Non-Compliance

If the family does not comply with its obligation under the Contract of Participation, including the obligation to seek and maintain employment, the HACM will withhold supportive services, terminate the family's participation in the FSS program, and reclaim the funds in the family's escrow account. Prior to termination of FSS participation, the client will be counseled, warned in writing, permitted to revise the ITSP, if appropriate, and offered the choice of voluntary withdrawal from the FSS program. If the proposed FSS termination proceeds, the client will be afforded the opportunity for an informal hearing, as outlined in the Housing Authority's Administrative Plan.

The family is eligible to continue receiving Section 8 assistance following termination of FSS participation, however the family will not be eligible to re-apply for the FSS program in the future. At termination, the family will be reclassified as a non-FSS family, and a replacement family will be selected for the available program slot.

If the family's Section 8 assistance is terminated, its FSS participation will be terminated simultaneously. The client will be entitled to an informal hearing with regard to the termination

of housing assistance; an additional informal hearing for the simultaneous FSS termination will not be granted.

Withdrawal

An FSS participant may withdraw from the program with written notice to the Housing Authority stating the reason for withdrawal. A withdrawal will be considered a termination by mutual consent. The participant will forfeit the funds in the escrow account. Following a withdrawal from the program, the participant will be eligible to re-apply for the FSS program in the future; however at the time of re-application; the participant's name will be placed at the bottom of the FSS waiting list. At the time of withdrawal, the family will be re-classified as a non-FSS family and a replacement family will be selected for the FSS program.

PART III: ESCROW ACCOUNTS, PORTABILITY AND PROGRAM TERMINATION

18-III.A. ESCROW ACCOUNTS

The Housing Authority of the County of Monterey offers monetary and non-monetary incentives to encourage participation in the FSS program as a means of rewarding participants to progress towards self-sufficiency.

Non-monetary: Participants receive numerous non-monetary benefits, such as comprehensive case management services, access to a network of resources, peer support, advocacy, and a safe setting to practice life skills. The individual attention, support and problem solving assistance provided by the FSS staff provides very real benefits in terms of sustaining gains in self-esteem, promoting family stability and unity during times of transition while fostering expectations of success.

Escrow Account: Monetary incentives are established via credits to a savings account in the name of the participant called an escrow account. The amount of the escrow account credit varies according to the family's increase in earned income. The base-line earned income figure is determined by the family's earned income at the time of the signing of the Contract of Participation. Escrow funds are placed in an interest bearing depository account and made available to the FSS client upon successful completion of the COP.

Credit Calculation: Families participating in the FSS program continue to pay rent in accordance with their incomes. Tenant rent is calculated according to the Housing Choice Voucher program regulations. Annual re-examinations for FSS are scheduled and conducted in accordance with re-examination procedures utilized for all HACM clients as outlined in the Administrative Plan. FSS clients are subject to the same requirements with respect to verifications of household income and composition. HUD requires all participants to report all changes in household composition to the Housing Authority between annual re-examinations. FSS participants are urged to report increases in earned income in order to accurately calculate escrow credit.

When the FSS COP is executed, the family's annual income, earned income, and family rent are inserted into the contract to be used as base-line figures for future escrow calculations. The Housing Choice Voucher program defines the family rent as 30% of the adjusted monthly income. The annual income, earned income, and family rent figures in the COP are derived from the family's most recent annual or interim re-examination provided that less than 120 days have elapsed between the effective date of the most recent re-examination and the effective date of contract. If more than 120 days have elapsed, a new re-examination shall be conducted prior to the execution of the COP.

The Housing Authority's Section 8 Administrative Plan states that families must report increases or decreases in income/assets between regular re-examinations (See Chapter 12.C Reporting Interim Changes [24 CFR 982.516]). FSS participants will be permitted to report an increase in family income in order to establish or increase FSS escrow credit while paying a higher rent. The client will be required to provide all appropriate documentation supporting the change in income to the Section 8 Housing Specialist. The rent increase and the posting of the corresponding escrow credit will take effect the first of the month after the standard (30) day notification period.

The FSS credit is based on the family' increase in earned income. It does not include increases in welfare benefits or other unearned income or the income of children under 18. If the FSS client marries, the spouse's earned income will be counted when computing the FSS escrow credit whether or not the spouse is actively participating in the program. If the family reports no income, no escrow credit will be received until earned income is generated and reported. Credits to the FSS escrow account will cease when the COP has been successfully completed, terminated, or otherwise nullified.

Escrow Accounting

Escrow funds are deposited in an interest bearing account managed by the Housing Authority County of Monterey Finance Department. A monthly balance sheet detailing the family's escrow credit and applicable interest accumulation is generated. Once the family begins to pay a rent portion based on the presence of earned income, the FSS credit will be computed according to HUD guidelines and credited to the family's account monthly. Each family receives an annual statement detailing the status of the escrow account that includes the balance and accrued interest.

In the event that the family becomes delinquent in their rent payments, the balance in the FSS account will be reduced by that amount prior to the pro-ration and distribution of interest income. FSS account balances are adjusted in cases of rent delinquency because the credit is based on the amount of rent the family actually paid, not the amount charged.

Disbursement of Escrow Funds

The amount in the FSS account in excess of any amount owed to the Housing Authority by the family will be paid to the head of the FSS family when the COP has been successfully completed and verified by the Housing Authority that no member of the FSS family has received any for of welfare assistance for at least on year.

If the family fulfills its FSS contract obligations prior to the end of the five year contract period, and the Housing Authority has verified that no member of the FSS family has received any welfare assistance for at least one year, the head of the FSS family will be paid the amount in the FSS account less any amount owed by the family to the Housing Authority. Early completion of the contract obligations can also occur when the family's tenant payment (30% of the monthly adjusted income) is equivalent to the Section 8 Fair Market Rent for the unit size for which the family qualifies.

Interim Disbursements: Escrow funds may be withdrawn before the completion of the contract if the family has completed specific interim goals designated by the Housing Authority of the County of Monterey. The determination to disburse funds will be at the sole discretion of the FSS Coordinator and the Director of Housing Assistance Programs under the following conditions:

- The funds are needed to complete goals in the family's COP (example: to pay for school tuition, job training, or business start-up expenses);
- The family can demonstrate completion of specific interim goals from its COP;
- Interim disbursements may not be granted for more than 50% of the family's escrow balance at the time of request;
- The HACM will not grant more than (2) interim disbursements per family;
- The request for interim disbursement must be in writing and include verification that the funds will be utilized for the completion of a goal as stated in the family's COP; and
- Interim escrow disbursements will be paid in the form of a check made payable to the agency or business providing the required items or services.

Succession

If the head of the FSS family ceases to reside in the assisted unit, the remaining members of the household may designate another family member to receive the escrow funds upon successful completion of the COP. The designation of an alternate family member to receive the escrow funds must be made in consultation with the FSS Coordinator. If the FSS head of the family separates from his/her spouse, the family member retaining the voucher may designate him/herself to receive the escrow as authorized by FSS regulations.

Forfeiture of Escrow Funds

[24 CFR 984.305 (f)]

If an FSS participant's COP is terminated or declared null and void the family has no right to receive funds from the family's FSS escrow account. The Housing Authority will close the family's escrow account and may use the forfeited funds in accordance with HUD regulations.

Escrow monies in the FSS account will be forfeited if the Housing Authority terminates the COP or if the COP is completed but the family is receiving welfare assistance when the contract expires, including any extensions. If an FSS family fails to pay rent per the lease agreement under the Section 8 Housing Choice Voucher program, the funds may be forfeited because compliance with the Section 8 housing lease is a family obligation under the contract. Non-payment of rent is grounds for terminating a family's FSS participation and forfeiture of the escrow account.

FSS account funds that are forfeited by a FSS family will be treated as program receipts for the payment of program expenses under the Housing Authority budget for the applicable Section 8 program, and shall be utilized in accordance with HUD requirements governing the use of such program receipts.

18-III.B. PORTABILITY

Potential candidates for the FSS program proceed through the intake process without regard to their status as portability clients. If an incoming portability client is selected for the FSS program, the client's voucher will be absorbed by the Housing Authority of the County of Monterey in order to facilitate the client's participation in the Family Self-Sufficiency program.

Out-Going Portables

As the FSS client begins to consider exercising portability, the FSS Coordinator will discuss all transfer options with the client. It is the responsibility of the FSS family to inform the receiving Housing Authority of its FSS status and to contact the FSS Coordinator at the receiving Housing Authority. FSS clients porting out of Monterey County must promptly re-enroll in the receiving housing authority's FSS program if they wish to continue their participation in the program. If the client is unable to continue participation in the receiving housing authority's FSS program and it is not feasible for the family to continue in the HACM FSS program after transfer, the family's participation in the HACM FSS program will be terminated. Support services will cease and the family will forfeit funds in the FSS account.

Incoming Portables

The Housing Authority of the County of Monterey is not obligated to accept incoming portable FSS participants into the FSS program. Acceptance of incoming portable clients is entirely at the discretion of the Housing Authority. A selection preference will not be granted to FSS families transferring in from other jurisdictions. The HACM will accept incoming FSS families as allotted FSS slots become available.

It is the responsibility of the FSS family exercising portability into the HACM jurisdiction to notify the Housing Authority of their status as an FSS participant. Families that notify HACM of their FSS status within ninety (90) days of the date of their lease up in the Housing Authority's jurisdiction may be accepted into the FSS program, as space is available.

HACM is located in a metropolitan FMR area and the following information must be included in the briefing packet:

Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.

Information about the characteristics of these areas including job opportunities, schools, transportation and other services.

An explanation of how portability works, including a list of portability contact persons for neighboring HAs including names, addresses, and telephone numbers.

Denial of FSS Participation

The HACM may, at its discretion, deny participation in the FSS program to a family that previously participated and was terminated from the program because they did not meet their FSS obligations according to the COP.

Families denied participation in the FSS program may request an informal hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines in this plan. The request for an informal hearing must be made in writing within seven (7) working days of the date of the decision to deny participation.

18-III.C. PROGRAM TERMINATION / WITH–HOLDING OF SERVICES AND AVAILABLE GRIEVANCE PROCEDURES [24 CFR 984.303]

Families that fail to meet their FSS obligations will be terminated from the FSS program. The COP will be cancelled, supportive services will be discontinued, and the funds in the escrow account will be forfeited. The family will be allowed to continue receiving Section 8 assistance provided that the family continues to meet all obligations under the Housing Choice Voucher

program. The family will retain its voucher and will be re-classified as a non-FSS family. They will not be eligible to re-apply for the HACM FSS program in the future.

If a family's Section 8 voucher assistance is terminated for fraud, criminal activity, or violation of obligations under the Section 8 program the family will simultaneously be terminated from the FSS program. The FSS Contract of Participation will be cancelled, supportive services will cease, and any escrow funds accumulated will be forfeited.

The termination of an FSS family's Section 8 voucher assistance due to fraud, criminal activity, etc. shall be handled in a manner identical to that used for non-FSS families. An additional hearing in connection with the FSS termination will not be granted.

Reasons for Termination

The COP may be terminated before the scheduled contract term for any of the following reasons:

Mutual consent by participant and the FSS Coordinator

- The FSS family fails to meet its obligations outlined in the COP
- The family withdraws from the FSS program
- Other acts deemed inconsistent with the purposes of the FSS program or by operation of law

Failure to meet the terms of the COP may include:

- Continued unexcused absences from scheduled meetings or appointments
- Failure to seek and maintain suitable employment
- Refusal to comply with the contract obligations
- Failure to complete the requirements of the ITSP

Available Grievance Procedure

If the HACM staff determines the need to terminate or withhold a participant's supportive services under the COP for failing to comply with the terms of the contract, the participant will be allowed to request an informal hearing before the termination is executed.

All notices of termination will be in writing. The reason for termination will be specifically explained in the notice. All requests for a hearing must be in writing. The HACM will make a good-faith effort to informally resolve the complaint prior to a scheduled hearing. Participants shall have the right to withdraw their request for a hearing in writing any time prior to the scheduled hearing date.

Participants shall have the right to be represented, at their own expense, by a person(s) of their choosing at all levels of the compliant process. All complaints concerning FSS are to be made directly to the Housing Authority's FSS Coordinator.

Request for Hearing

A participant has ten (10) calendar days from the date of termination notice in which to request a hearing. A request for a hearing that is not received within the ten-day time limit will no be considered. The HACM **will not** grant any extensions of time in which to file. The request for a hearing **must** include the following information:

- Full name, telephone number, and the mailing address of the participant,
- Written request for a hearing based upon the actions taken by the Housing Authority; and
- Summary statement of the reasons the participant feels that termination is not justified.

The Director of Housing Assistance Programs will review all requests for hearings filed by participants of the FSS program. The Director of Housing Assistance Programs may reinstate the program participant to the FSS program if extenuating circumstances offered by the participant warrant the reinstatement.

18-III.D. ASSURANCE OF NON-INTERFERENCE

Participation in the Family Self-Sufficiency Program is voluntary and is not a requirement for continued Section 8 voucher assistance. A family's election not to participate in the FSS program will not affect the family's admission to or continued participation in the Section 8 Housing Choice Voucher program or the family's right to occupancy in accordance with it lease.

18-III.E. PROGRAM COORDINATING COMMITTEE [24 CFR 984.202]

The Housing Authority of the County of Monterey will maintain a Program Coordinating Committee (PCC) to assist the FSS program in securing commitments from public and private resources for the operation of the FSS program. The PCC will act as an advisory body to the FSS program. Additionally, the PCC will expedite and coordinate agreements between the HACM and potential service providers. The PCC will meet annually.

Chapter 19

WELFARE-TO-WORK RENTAL VOUCHERS PROGRAM

INTRODUCTION

This program is targeted to welfare recipients for whom housing assistance is critical to obtaining or retaining employment.

The Quality Housing and Work Responsibility Act of 1998, provides enhanced incentives for work through practices such as income disregards, ceiling rents and it also allows Housing Authorities to create admissions preferences for families moving from welfare-to-work.

Families gain access to employment, training, education, case management and childcare and other services through programs. These and other programs work through partnerships with local public, private and nonprofit service providers.

For purposes of the Welfare-to-Work Program: Welfare-to-work rental voucher program eligible family means a family that meets the eligibility requirements of the normal tenant-based Section 8 assistance program.

PART I: PROGRAM ELIGIBILITY AND LOCAL PREFERENCES

19-I.A. ELIGIBILITY CRITERIA FOR WELFARE-TO-WORK RENTAL VOUCHERS PROGRAM

Welfare to Work eligibility is based on a family, which meets the following criteria, (Federal Regulation/Vol. 64, No.18, dated January 28, 1999.)

- Families must be eligible to receive, be currently receiving, or shall have received within the preceding two years, assistance or services funded under the TANF program.
- Tenant-based housing assistance must be determined to be critical to the family's ability to successfully obtain or retain employment; and
- The family shall not already be receiving tenant-based assistance under Section 8 Housing Assistance Program.
- To be eligible for selection for the Section 8 Welfare-to-Work Rental Voucher Program, families must be on the waiting list used by the Housing Authority for its tenant-based Section 8 program and meet the eligibility criteria of the welfare-to-work program.

19-I.B. APPLICANT ELIGIBILITY

- Applicants exempt from the CalWORKS requirements are not eligible for the Welfare to Work Program.
- The applicant does not qualify for the Welfare to Work Voucher if the applicant is not able to work or attend school.

19-I.C. PARTICIPANT CONTINUED ELIGIBILITY

- To continue to qualify for the WTW Voucher Program, the participant must be working or going to school.
- Employed is defined as working a minimum of 128 hours per month for a single parent or 140 hours per month for a two-parent household.
- Attending school is defined as a minimum of 6 units from an accredited college or as defined in a vocational training program or adult education facility.
- Maximum period of time a participant can be without employment or going to school is six (6) months accumulative during a 12-month period. Receiving unemployment benefits satisfies employment requirement.
- Success on WTW Program is when the family has been independent of welfare assistance for at least five (5) years.
- The WTW Voucher will be revoked and rental assistance will terminate upon breach of the WTW Contract of Participation.
- The WTW participant can transfer their voucher to another jurisdiction that has a WTW Program. Exceptions will be considered if the participant can verify with third party documentation that the move is a result of gaining or maintaining employment or to further their education.
- If a participant becomes disabled and eligible to receive SSI, the client will be issued a Section 8 Housing Choice Voucher.
- If a participant has received workman's compensation for a consecutive 12-month period, the client will be issued a Section 8 Housing Choice Voucher.
- If a participant is terminated for non-compliance, participant must wait for a period of one year before re-applying. If participant is re-admitted to the program for a second time and is terminated for non-compliance (a second time) must wait for a period of two years before re-applying. Each subsequent termination for non-compliance will be progressive.

19-I.D. WELFARE-TO-WORK WAITING LIST LOCAL PREFERENCES

All applications are ranked by the Ranking Point system and the date and time of application

Applicants who are graduating from a transitional housing program, who are receiving CalWORKs assistance, or are employed and who still receive supportive services paid by CalWORKs. **20 Points**

Applicants who are presently employed, and who have been employed for no more than one year, and who receive supportive services paid by CalWORKs. This includes childcare assistance, transportation assistance, health, food stamps, and other services. **15 Points**

Applicants who are participating in a job training, preparation, job counseling, job development and placement program. **10 Points**

Applicants who are enrolled in an educational program such as remedial education or post secondary education. **10 Points**

Other CalWORKs household. Applicants that are now employed who are not receiving support services but had received AFDC/TANF within the last two years. **10 Points**

PART II: HACM ROLE AND RESPONSIBILITIES

19-II.A. THE ROLE AND RESPONSIBILITIES OF THE HOUSING AUTHORITY IN THE SELECTION AND HOUSING OF FAMILIES FOR THE WELFARE-TO-WORK RENTAL VOUCHER PROGRAM

- The Housing Authority's primary focus will be to conduct outreach to reach the targeted population, to provide housing counseling for clients during their housing search and at initial lease up to insure the successful retention of their housing.
- The Housing Authority will review the existing Section 8 waiting list to identify families that may be eligible for the Welfare-to-Work Rental Voucher Program. The Housing Authority will continue to review new applicants for the Section 8 program and refer the families on the Section 8 waiting list to the Department of Social Services for a certification of whether the family meets welfare-to-work eligibility requirements.
- Processing of housing subsidies and distribution to families in the order of applications by date and time and priority rankings.
- The Housing Authority will expedite the process for third party verification and if necessary will use other HUD accepted verification of a family's income and eligibility to the maximum extent possible.
- The Eligibility Specialist will make the determination of whether housing assistance is critical to the family's success in the welfare to work program based on the information provided by referring agencies.
- The Housing Authority will coordinate the housing assistance with the efforts of the CalWORKs and OET (Office for Employment and Training) programs.
- The Housing Authority will provide outreach to landlords to promote fair housing and landlord acceptance of Section 8 Vouchers under the program.
- The Family Self-Sufficiency Coordinator will assist families to address barriers to employment.
- If Section 8 assistance to any Welfare-to-Work family is terminated, their voucher will be reissued to another WTW eligible family.
- Maintain quality program data for future program evaluation.

- Make changes in Administrative and Equal Opportunity Plan where necessary.

19-II.B. TENANT COUNSELING

Upon request of the participant, the FSS Coordinator will conduct a needs assessment in order to determine the supportive services needed by the family. The client may be referred to the following supportive services, which are available within the Community and / or paid for by CalWORKs.

- Childcare which provides sufficient hours of operation and which serves an appropriate range of ages to meet family needs.
- Transportation resources that may be needed by a family.
- Remedial Education and education to better job skills.
- Education for completion of secondary or post secondary education or completion of a GED
- Job Training, job preparation, and specialized counseling.
- Referral to substance abuse programs for any member of the family.
- Training in money management and credit repair.
- Parenting skills classes.
- Gang intervention specialist
- Training in household management, housekeeping skills
- Job Placement and follow-up
- Domestic violence counseling

Participants will be provided monthly opportunities for counseling in basic life skills, which will enhance the participant's ability to find and retain employment and any other service/resource as appropriate to assist the families to transition from welfare assistance.

19-II.C. THE ROLE AND RESPONSIBILITY OF PARTICIPATING AGENCIES IN THE REFERRAL AND CERTIFICATION OF FAMILIES FOR THE WELFARE-TO-WORK RENTAL VOUCHERS PROGRAM

- Each agency will be responsible for individualized services, which are the focus of that Agency.
- Applications may be distributed to potential WTW housing clients by One Stop Center as they are accessing employment services and other related services.
- Community Agencies, which assist persons with disabilities to access services, will also be utilized for referral of their clients who are also actively participating in CalWORKs

activities. These agencies include the Veterans Transition Center, John XIII AIDS Ministry, California Department of Rehabilitation, and the Center for Independent Living

- Department of Social Services CalWORKs job programs and Community Partners Agencies will also be utilized to assist with the outreach and recruitment of eligible families to be included on the waiting list.
- The local CalWORKs, Office for Employment Training, Adult School, Vocational Training, Community College, or other welfare-to-work program must certify the individual's preference eligibility and that the individual is actively participating in their CalWORKs activities.
- Provision of supportive services to assist clients to remain employed as authorized by CalWORKs.

19-II.D. PROCEDURE FOR USE OF THE HOUSING AUTHORITY WAITING LIST FOR SECTION 8 WELFARE-TO-WORK RENTAL PROGRAM

- The Housing Authority will first review its waiting list to determine if there are any Welfare-to-Work families already on the list who may be eligible.
- In those instances where the HACM waiting list is closed and the waiting lists have been exhausted for the Welfare-to-Work Rental Voucher Program families, the HACM may open the list for Welfare-to-Work eligible families only. These families may be referred by the Department of Social Services, education facilities, or other service providers.
- Once a list of Welfare-to-Work eligible families has been established, the Welfare-to-Work Rental Vouchers will be disbursed by the families place on the waiting list based on date and time of application and priority given.

Chapter 20

PROJECT BASED SECTION 8

INTRODUCTION

(This policy is for units accepted into the PBV Program prior to November 14, 2005.)

The Housing Authority is authorized under 24 CFR Subpart A, Section 983.1, to provide Section 8 project based assistance utilizing funds provided to the Housing Authority for the Section 8 Housing Choice Voucher Program.

A. PROJECT-BASE SECTION 8

Maximum of 25% of dwelling units in a building may have project-based assistance. Dwelling units in single-family properties, consisting of four units or less buildings, and dwelling units specifically for elderly / disabled families are exempt from the 25% limit.

Dwelling units where families receive supportive services will be exempt after rulemaking takes place to define supportive services.

Units for disabled families may not target a specific disability and should locate units for disabled families in the most integrated setting possible.

Existing housing is a unit that at the time of written notice of selection of the project for project-based assistance require less than $1,000 per unit, including the prorated share of any work to be performed in common areas or systems to meet Housing Quality Standards, and lead based paint standards. Existing housing is exempt from the site and neighborhood standards criteria.

B. METHOD OF UNIT SELECTION

Unit Selection Policy

Only applications that are received in response to the HA advertisement will be considered for project basing. The advertisement will solicit applications for new, rehabilitation construction, or existing units.

Existing housing for non-elderly and non-disabled units will selected in a non-competitive manner, not rated and ranked, as long as all information requested is contained in the application.

Applications will be selected by date and time received at the HA.

Separate advertisement shall be used for existing non-elderly and /or non-disabled units that will be held to the 25% unit limitations.

For existing elderly and disabled units in excess of the 25% limitation, ranking factors should include factors that address site, design, feasibility and experience of the participants in operation of such housing or programs.

All buildings selected must be located in census tracts with poverty levels of less than 20%.

For new construction and rehabilitation the Environmental Review Process must be completed prior to HAP. Subsidy layering review, if tax credits are involved must be completed. For new construction HUD will approve all site locations, and for rehabilitation, the HA approves site locations, unless it is a HA owned property.

C. AGENCY RESPONSIBILITIES

Overview of Project Based Role of Responsibilities

Purpose of Agreement

For any units assisted under the Project Based Program, the HA and the Owner enter into a contract, which includes the Housing Assistance Payment (HAP) Contract. The Agreement between the owner and the Housing Authority, states upon the satisfactory inspection of existing housing and verification that less than $1,000 is necessary for rehabilitation, or if new construction, or rental rehabilitation, the completion of new construction or rehabilitation, in accordance with the requirements outlined in the Agreement, the HA will enter into a HAP contract with the owner.

HAP Contract Responsibilities

The HA enters into a Housing Assistance Payment (HAP) contract to make housing assistance payments during the ten-year contract term for a specific unit, or for a period as long as the Housing Authority has funding under an ACC. The subsidy is paid when the owner leases the unit to an eligible family. To fill the vacant project based units, the HA refers families from its waiting list to the project owner. The assistance is tied to the unit, but if the family moves from the unit after a one-year period, the Housing Authority must issue a tenant based Voucher to allow the family to move wherever it chooses. When the family vacates the unit, the unit is rented to another eligible family.

D. CONTRACT TERM

The initial term is for a maximum of ten years, subject to future availability of appropriations.

Term of renewal contract is for number of years HA selects, subject to future availability of appropriations and future availability of funding under the ACC.

The HA may deny extension of an ACC to a project owner for failure to maintain units or other owner misconduct specifically identified in the Section 8 program regulations and the administrative plan.

E. ELIGIBLE PROPERTIES

Existing housing for non-disabled, and non-elderly households, will have certain benefits to select for project basing, due to the inapplicability of certain factors including neighborhood standards (other than poverty level census tracts exceeding 20%), displacement and relocation, Davis Bacon Requirements, Environmental Review, minimum project expenditures, owner application submission prior to agreement and unit selection policy.

As long as existing housing requiring less than $1,000 to meet Housing Quality Standards (HQS), assistance may be attached to 25% or less of the units in a building. For units, that are occupied, all tenants must be income eligible for the Section 8 program. The owner application is not necessary for existing units.

At least 60 days prior to the effective date of the HAP contract the owner must notify the HA of any units expected to be vacant on the ant icipated date of the HAP contract. The HA must refer to the owner from the separate waiting list, an appropriate sized family. When the HAP contract is executed, the owner must notify the HA of which units are vacant.

F. INELIGIBLE PROPERTIES

The HA may not attach Project Based Section 8 assistance to any of the following units:

Housing for which the construction or rental rehabilitation is initiated prior to an Agreement is executed with the HA. Existing housing is exempt from these criteria.

Housing for which the rehabilitation is initiated prior to an Agreement with the HA.

Shared housing, nursing homes; and facilities providing continual psychiatric, medical, nursing services board and care or intermediate care.

Units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions;

Housing located in the Coastal Barrier Resources System designated under the Coastal Barrier Resources Act;

Housing located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having a special flood hazard, unless the community in which the area is situated is participating in the National Flood Insurance Program

A public housing or Indian housing unit.

College or other school dormitories;

A manufactured home;

A unit subsidized by any other form of Section 8 assistance either project or tenant based;

A unit subsidized by any local or State rental subsidy;

Section 236 Project (insured or uninsured); or a unit subsidized with Section 236 Rental assistance payments;

A Rural Development Administration 515 project;

A unit subsidized by rental assistance payments under the Section 521 program of the Housing Act of 1949 (Rural Development Adm. Program);

A Section 221(d)(3) project;

A project with a Section 202 or 811 Loan, including Supportive Housing for the Disabled or Elderly;

A Section 101 rent supplement;

A unit subsidized with tenant based assistance under the HOME Program;

Any unit with other duplicative Federal, State or local housing subsidy, as determined by HUD.

A unit occupied by the owner, however, cooperatives are considered to be rental housing for purposes of part 983.

Eligibility of Single Room Occupancy Units

The HA may attach assistance to units for use as single room occupancy (SRO) *only* if *the following occur:*

The property is located in an area in which there is a significant demand for these units, as determined by the HUD field office.

The HA and the unit of local government that has jurisdiction over the property, approve the attaching of assistance to these units; and

The HA and the unit of local government with jurisdiction over the property certify to HUD that the property meets applicable local health and safety standards.

HA Owned Units

A HA owned unit is a unit other than public housing which is owned by the Housing Authority that administers the assistance under part 983, under an ACC between HUD and the HA. This includes any entity substantially controlled by the HA.

Procedures for HA Owned Units

The HUD field office must select the HA owned unit pursuant to the competitive ranking and rating system outlined in this Project Based Plan.

The HUD field office must conduct all HA reviews required under part 983 before the execution of the Agreement to Project Base, and prior to initiation of construction or rehabilitation.

The HUD field office must establish the initial contract rents.

The HA shall conform with the regulations outlined at 982.352, Subpart H, relating to HA owned housing that requires the HA to obtain the services of an independent entity to perform the HA functions.

G. SITE, CONSTRUCTION AND REHABILITATION STANDARDS

All Housing quality and construction standards outlined in 982.401 apply to assistance designated under the Project Based Section 8 Program, including the following:

New Construction Standards

For all new construction, HUD must approve the new site as meeting the following site and neighborhood standards:

Must be of adequate size, shape and contour to accommodate the number and type of units, and have access to adequate utilities such as water, sewer, electricity and gas, and the streets must be available to service the site.

The site and surrounding neighborhood must be suitable from the perspective of furthering and facilitating full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD implementing regulations.

The site must not be located in an area of minority concentration, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

A project may be located in an area of minority concentration only if:

Sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration.

The Project is necessary to meet overriding housing needs that cannot be met in that housing market area.

Sufficient does not require that in every locality there are an equal number of assisted units within and outside of areas of minority concentration. HUD interprets the application of this standard in a way that the production of a reasonable distribution of assisted units occur each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families, and in relation to the racial mix of the locality's population.

Units are considered comparable, if they have the same household type, i.e., elderly, disabled, family, large family and tenure type, i.e., owner, or renter. Units must require the same tenant contribution towards rent; serve the same income group; be located in the same housing market; and are in standard condition.

Application of the sufficient standard involves assessing the overall impact of HUD assisted housing on the availability of housing choices for low-income minority households in and outside areas of minority concentration, and must take into consideration the extent to which the following factors are present, along with other factors relevant to housing choice:

A significant number of assisted housing units are available outside areas of minority concentration.

There is significant integration of assisted housing projects constructed or rehabilitated in the past ten years relative to the racial mix of the eligible population.

There are racially integrated neighborhoods in the locality.

Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentrations.

Minority families have benefited from local activities, e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisition of units for use as assisted housing units) undertaken to expand choice for minority households outside of areas of minority concentration.

A significant proportion of minority households have been successful in finding units in the non-minority areas under the Section 8 certificate and voucher programs.

Comparable housing opportunities have been made in areas outside of minority concentration by other programs.

The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions, i.e., redevelopment activities, economic development.

The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods, consisting largely of unassisted, standard housing of similar market rentals.

Except for new construction housing designated for elderly persons, travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

Rehabilitation Standards, existing housing

To qualify for rehabilitation under part 983, the existing structure must meet site and neighborhood standards outlined below, and meet minimum expenditure of $1,000 per assisted unit. The inclusion of the prorated cost of common improvements shall be considered in the costs of the individual units. The minimum cost shall include the unit's prorated share of work to be accomplished on common areas or systems.

Findings on Rehabilitation

The rehabilitation must be conducted in order to:

Upgrade the property to decent, safe, and sanitary condition to comply with the housing quality standards, or other standards as approved by HUD, from a condition below those standards.

Meet the $1,000 minimum rehabilitation per unit criteria.

Repair or replace major building systems or components in danger of failure within two years from the date of the initial HA inspection;

Convert or merge units to provide housing for large families; or

For up to seven percent of the units to be project based, accessibility improvements to the property necessary to meet the requirements of Section 504 of the Rehabilitation Act or 1973 and the Fair Housing Amendments Act of 1988.

Rehabilitation Site Standards

With the exception of HA owned or controlled projects, which will be reviewed by HUD, the HA approves the sites for rental rehabilitation. The site for rehabilitation must meet the following site and neighborhood standards, and comply with all standards outlined in 982.401. The site must be:

Adequate in size, exposure and contour to accommodate the number and types of units to be rehabilitated.

The site must be served by adequate utilities and streets must be available to service the site. An on-site private disposal system and private sanitary water supply for the site, approved in accordance with law, is considered adequate utilities.

The site must further and facilitate full compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, E.O. 11063, and HUD regulations.

The site must promote greater choice of housing opportunities and avoid undue concentration of assisted person in areas containing a high proportion of low-income persons.

The site must be accessible to social, recreational, educational, commercial and health facilities and services, and other municipal facilities and services which are equivalent to these typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

Be located so that travel time and cost by public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. Housing for the elderly must not be totally isolated from employment opportunities; therefore HUD does not interpret this requirement so rigidly for elderly housing.

H. SELECTION OF OWNER PARTICIPANTS

This criteria is not applicable to the attachment of project based Section 8 to existing housing, where 25% or less of the units in a building will be assisted. For selection of existing units where less than 25% of a building is to be project based, the units may be selected based upon first come first served, or time and date of submission of request to project base units. The advertisement criteria still exists for these units, as well as the 20% poverty level criteria for a census tract, in which a property may be located.

Advertise for Owner Participants

Each year over the five year targeted period to project base the amount of Section 8 to be project based, the Housing Authority will advertise in the Salinas Californian and the Monterey Herald newspapers that the HA will accept applications for project basing under Section 983, for specific development or rehabilitation projects. The advertisement will be submitted to HUD for approval prior to the initiation of the advertisement. For project basing of Section 8 **for existing units, where 25% or less of a** building will be assisted, a separate advertisement will be published, notifying owners of the date and time of final selection, and that the units must meet Housing Quality Standards, and require less than $1,000 to comply with the HQS.

*The Advertisement samples for each **model of project based assistance are contained in Appendix 2.***

Pursuant to regulations, all advertisements shall be:

Published once per week for three consecutive weeks;

Specify an application deadline at least 30 days after the date of advertisement is last published;

Specify the number of units the HA estimates for assistance under the funding the HA is making available for the Project Basing Plan;

Specify that the only applications submitted in response to the advertisement will be considered.

In all cases (i.e., existing housing, new construction, and rehabilitation) a Notice to the project owner that the property must meet Housing Quality Standards, the Lead Based Paint Inspection, and tenant section must be in accordance with the Housing Authority referrals from the merged waiting list, and the owner must confirm to all Fair Housing Laws. For Rehabilitation and New Construction an Environmental analysis pursuant to 24 CFR part 58 must occur. **For New construction or Rehabilitation of more than 9 assisted units the owner must comply with Davis Bacon Labor Standards.**

Owner Application

Unit selection policy requires the owner to submit the following:

1. Project description which includes the overall number of units in each building in the project; the number of units the owner wishes to project base, number of units by size, unit plans, and a listing of the amenities; [E, NC, RC]**

2. A description of the property as is and a description of the proposed rehabilitation, and an estimated date of completion; [RC]

3. Evidence of site control; [NC, RC]

4. New construction site description; [NC]

5. Evidence of zoning compliance; [NC, RC]

6. A statement of whether or not the units are in a census tract with poverty rates of less than 20 percent; [E, NC, RC]

7. Proposed contract rent and an indication of what utilities and services are included in that rent; [E, NC, RC]

8. Projected utility costs; [E, NC, RC]

9. The number of units that will be vacant at the time of HAP; [E, RC]

10. Certification that there will be no displacement; [see 983.51(c)(5)] [E, RC]

11. Whether the development would house the Elderly, the Disabled; [E, NC, RC]

12. A description of support services available to families who will live in the development if applicable; [E, NC, RC]

13. Participant identification including owner, developer, builder, architect, management agent, other participants, and other parties having a substantial financial interest in the AHAP or HAP; [NC, RC]

14. Participant identification including owner, management agent, other participants, and other parties having a substantial financial interest in the HAP; [E]

15. Qualifications and experience of the principal participants; [NC, RC]

16. Disclosure of possible conflict of interest; [E, NC, RC]

17. Previous Participation Certifications; [NC, RC]

18. Project management plan; [NC, RC]

19. Evidence of financing; [NC, RC]

20. Disclosure of other government assistance; [E, NC, RC] and

21. Specify what local objectives as detailed in the HA Plan the project meets. [E, NC, RC]

** Existing units = E

New Construction = NC

Rehabilitation Construction = RC

Incomplete Owner Applications

Incomplete owner applications will be returned to the owner with an explanation of deficiencies noted.

An application will be considered to be incomplete if, for rehabilitation the $1,000 per unit threshold is not met.

If after return to the owner, there is still an available increment of Section 8 to project base, another screening will be held and the incomplete applications will be invited to participate in the screening.

Tied Scores- In the event there are tied scores, the project selection will be based upon project feasibility and timeliness to implement. The tied projects will be invited to submit additional data to allow the HA to determine additional points for a project which may be more timely implemented than one which may take longer to implement.

Applications that cannot be fully funded

If the HA determines that there is an insufficient allocation left to fully project base a project, the owner will be notified of the amount left to project base, and if the unit count is sufficient, and the owner agrees, the agency will project base that amount left. In the event the owner is not able to agree to reduce the number of units to project base, the left over increment will be allocated for the next year's project basing selection.

Other Site Selection

Existing Housing where less than 25% of the units in a building will be Project Based

Project description including a site map, with units to be project based depicted.

Statement of whether the units are located in a census tract of less than *20% poverty rate, -to be verified by HA staff.*

Proposed contract rent and statement of utilities to be included in the rent.

Projected utility costs for the units to be Project Based;

The projected number of units projected to be vacant at the time the owner will sign the HAP contract;

Certification that there will be no displacement of tenants;

If project serves elderly or disabled tenants, identification of any supportive services available to the tenants;

Participant identification including the owner, management agent and other participants or parties having substantial financial interest in the property;

Disclosure of any possible conflict of interest;

Disclosure of all other governmental assistance assigned to the property.

I. EXISTING UNITS FOR ELDERLY AND DISABLED WHERE MORE THAN 25% OF UNITS IN A BUILDING WILL BE PROJECT BASED

Future guidance to come from HUD

J. REHABILITATION OR NEW CONSTRUCTION ASSISTED WITH PROJECT BASED SECTION 8

HUD Mandatory factors:

Site- Submittal of Evidence of Site Control. For new construction the identification and description of the proposed site, site plan and description of the neighborhood, utilizing census data. For new construction HUD approves all sites pursuant to the site selection criteria outlined in IV, 1.

For rehabilitation a discussion of the surrounding site, existing conditions and location within a redevelopment area.

Evidence that the proposed new construction or rehabilitation is permitted by current zoning or ordinances or regulation or evidence to indicate that the needed rezoning is likely and will not delay the project.

Flood Zone Certifications: For both new construction and rehabilitation the HA will determine if the site is located within a flood zone. The project owner shall submit a certification of the location of the project from the local building or Planning Department that identifies the FEMA Flood Map and Zone of the project location.

If in a flood zone area the owner shall submit a flood elevation certificate or other documentation that specifies construction elevations, or remedies for existing construction.

Design-Includes a description of the housing to be constructed or rehabilitated, including the number of units by size and square footage, lot sizes, bedroom count, bathroom count, sketches of the proposed new construction or rehabilitation, unit plans, listing of amenities and services, and estimate date of completion. For any rehabilitation the description must describe the property as is, and must describe the proposed rehabilitation.

For rehabilitation the work must equal at least $1,000 per unit as outlined in Section 982.8.

For all rehabilitation the owner shall submit work write-ups prepared by an architect or licensed cost estimator, which documents the requirements that the property meets the $1,000 per assisted unit rehabilitation requirement under Section 982.8.

Previous Experience of owner and other participants in the development

Identification of owner and project principals including the names of officers and principal members, shareholders, investors, and other parties having a substantial interest in the property, management of the property, or development of the property.

The owner must certify that all parties are not on the U.S. General Services list of parties excluded from Federal procurement and non-procurement programs. The owner must disclose any possible conflict of interest by any of the parties involved in the project that would potentially be a violation of the Agreement or the HAP contract. Information shall be submitted on the qualifications and experience of the principal participants. Any unknown information concerning any participant who is not known at the time of the owner's submission must be provided to the HA as soon as that participant is known.

Marketing-An overview of the proposed contract rent per unit, including an identification of utility costs, services and equipment are included in the rent and those that are not included in the rent. For any utilities that are not included in the rent, an estimate of the average monthly cost for each unit type for the first year of occupancy, based upon reliable data.

A plan for Affirmatively Marketing the project and conforming to all Fair Housing and Equal Opportunity Laws and Section 504 regulations. The marketing plan must contain all the elements identified in the Housing Authority's Administrative Plan for the Tenant Based Section 8 program.

Management

The owners plan for managing and maintaining the units and operation of the units under the Section 8 program. The HA has developed a format for this submission which is contained in Appendix 2.

Feasibility of the project as a whole and likelihood of financing and marketability

Determination of whether the property is eligible housing under Section 983.7, and meets all the Federal requirements in 983.11 noted below. The HA must determine if the site complies with site and neighborhood standards outlined in 983.6 and noted above.

Financing of the project- if the project is financed or tentatively financed through assistance other than assistance under the U.S. Housing Act of 1937 outlined in Section 983.9. The owner shall submit evidence of financing or lender interest and the proposed terms of financing

If the project is rehabilitation of existing housing, the Housing Authority must determine if the existing tenants are low income. If the existing tenants are not low income the HA may not enter into a contract for the unit. The project owner should submit at the time of application all data regarding the income sources, family size, and other information as defined by the HA to determine if families occupying units are low-income in accordance with Section 8 Program Regulations.

The project must address any required relocation issues. It is strongly advised that all projects avoid relocation, due to the extremely time consuming and costly processed involved. All Relocation Plans shall comply with The Uniform Relocation Act.

The Owner must submit a Relocation Plan if persons, families, individuals, businesses and nonprofit organizations that are currently occupying the property on the date of the submission of the application.

The Plan shall estimate of the number of persons that must be displaced, temporarily relocated or moved permanently within the building or complex. The estimated costs of relocation payments, and services, and the sources of funding for the relocation plan. The Relocation Plan must identify the entity that will conduct the relocation process and experience in conducting such a process.

The ranking scale for the above Mandatory Factors is contained in Appendix 3.

Other HA factors which further local objectives: the local objective criteria will allow additional points to be awarded to projects which exemplify objectives which further the goals of the local Consolidated Plans and Housing Authority Annual Plan, outlined below and are contained in Appendix 3 with specific point ratings:

Developments that integrate welfare to work or other self-sufficiency components into the rental housing, services shall be delivered through community learning centers or services coordinators.

Housing which contains supportive services for residents designed to assist residents to become self-sufficient.

This includes the provision of case management or referral to services to maximize self-sufficiency to the greatest extent possible

Developments which contain three or more bedroom units, designed for large families. These developments should be near community amenities such as parks, playgrounds, or schools.

For Rehabilitation Projects:

After selection of the applications for Project Based Section 8 and prior to initiation of an Agreement and HAP contract, the Housing Authority must:

The HA shall determine the projects which potentially will be project based and prior to execution of an agreement with the owner, the HA must determine that the proposed initial gross rents are within the fair market rent limitations published in the Federal Register

The HA must conduct an inspection to determine that rehabilitation has not begun and that the property meets the $1,000 per assisted unit rehabilitation requirement under the regulations at 982.8.

The owner must prepare work write-ups and, where determined necessary by the HA, specifications and plans. The HA has the flexibility to determine the appropriate documentation to be submitted by the owner based on the nature of the identified rehabilitation. Work write-ups must address the specific work items identified by the HA under Section 983.52, and other local standards for Housing Rehabilitation pursuant to the Uniform Building Code.

If the property to be rehabilitated meets the $1,000 limit requirement the HA must review the work write up and determine that the specific work items are needed to bring each unit to be assisted up to the HQS, or standards established under the Uniform Building Code if required by the local building inspector.

The HA must determine if any other repairs are necessary to meet the $1,000 per assisted unit rehabilitation requirement, and in the case of projects with five or more units to be project based under the rental rehabilitation, any items necessary to meet Section 504 requirements.

Prior to selection of the units, the HA must consider if the housing is eligible housing whether the units meet all other Federal requirements, and that the site and neighborhood standards are met.

The HA must determine the source of funding for the Rehabilitation and that it is not assistance under the U.S. Housing Act of 1937, i.e., public housing funds or Comprehensive Modernization Grant funds.

The PH must determine the number of current tenants that are low-income families:

The HA may not select units for project-based assistance it the unit is occupied by persons who are not eligible for participation in the Section 8 program.

Before the HA selects a specific unit to which assistance is to be attached the HA must determine if the unit is occupied, and if the unit's occupants are eligible for assistance.

If an eligible family occupies the unit including a single person, and the HA selects the unit for a contract with the owner, the family must be allowed the opportunity to lease the unit or another approximately sized, project based unit in the project without requiring the family to be placed on the waiting list.

The HA may not select a unit, or enter into an Agreement for a unit, if persons not eligible for participation in the program occupy the unit.

Under the project-based program single non-disabled persons are eligible under Section 812.3(b)(1), consistent with other requirements to permit occupancy of the project by single persons residing in the project at the time of conversion to project based assistance to prevent displacement.

All existing tenants are eligible for Relocation or Displacement payments under the Relocation Plan, if they are required to move to accommodate rehabilitation.

Prior to execution of an Agreement, the HA must contract with a State certified general appraiser and establish rents in accordance with Section 983.202. If the project is owned or substantially controlled by a HA, then the HA must seek and obtain the HUD determined initial contract rents, obtain subsidy layering contract rent reviews from HUD or a Housing Credit Agency, and obtain environmental clearance in accordance with Section 983.11.

Prior to execution of an Agreement, the HA must submit a certification to the HUD field office stating that the unit or units were selected in accordance with the HA approved unit selection policy and the HA must receive approval from the HUD field office to execute an Agreement pursuant to the reviews required in Section 983.53.

For all New Construction applications to project base Section 8

Prior to selection of units or execution of an Agreement, the application shall be reviewed for consistency with the selection criteria outlined above. The following must be performed:

The HA must determine that the construction work has not begun, and a site visit must occur.

The HA must determine that the proposed initial gross rents are within the rent reasonable criteria for rents.

The rents shall be established as outlined in 9 below.

The HA must consider whether the property is eligible housing within the meaning of Section 983.7.

Subsidy laying contract rent reviews shall be conducted.

All Federal requirements outlined in Section 983.11 are met.

The site and neighborhood standards are met.

<u>The HUD field office must review all owner applications for new construction</u>, which shall be submitted to HUD by the HA to determine compliance with requirements concerning the site and neighborhood standards.

The project will be constructed with other than assistance under the U.S. Housing Act of 1937.

In projects with four or more units, if any work items are required to meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Amendments Act of 1988 will be completed.

Other requirements under Regulations to project base new construction

Submission of Working Drawings- before an Agreement is executed for any new construction units, the owner must submit the design architect's certification that the proposed new

construction reflected in the working drawings and specifications complies with housing quality standards, local codes and ordinances, and zoning requirements.

Prior to the execution of an Agreement, for new construction

The HA sets the rents for new construction. For HA owned or controlled units the HA must contract with a State certified general appraiser and establish rents in accordance with Section 983.202, or seek and obtain the HUD determined Initial Contract Rents for any HA owned or controlled units or projects financed with a HUD insured or co-insured multifamily mortgage.

For units owned or controlled by a HA, HUD or a Housing Credit Agency conducts the subsidy layering contract review; the HA must seek and obtain environmental clearance in accordance with Section 983.11; and receive approval from the HUD field office to execute an Agreement pursuant to the reviews required in Section 983.56.

If the HA administering the ACC, or an entity substantially controlled by the HA administering the Section 8 ACC, has submitted an application to project base Section 8 under new construction, the HA must submit to the HUD field office, all owner applications in response to the advertisement. The HUD field office will select the owner applications to be funded, from the applications reviewed in response to the HA advertisement.

If there are no HA owned or controlled applications for project based Section 8, the HA shall submit to the HUD field office for completion of the site and neighborhood review on those applications which were determined by the HA to be eligible for further processing pursuant to "a" above. The HA must submit a certification to the HUD field office stating that the unit or units were selected in accordance with the HA's approved unit selection policy.

The HA's submission must not exceed the number of uncommitted units for which the HA is authorized to project base Section 8 assistance in connection with new construction. If the number of units contained in the applications that the HA has determined to be eligible for further processing exceeds the number of units for which the HA is authorized to project base, the HA may submit only the top ranked applications.

The HUD field office may terminate an Agreement or the HAP Contract upon at least 30 days written notice, to the owner by the HUD field office, if the HUD field office determined at any time that the units were not selected in accordance with the HA's approved unit selection policy or that the units did not initially meet the HUD eligibility requirements.

The project owner must be advised of other Federal Requirements for rental rehabilitation or new construction which includes the following:

Equal opportunity and related requirements- the project based program is subject to compliance with the Equal Opportunity requirements specified in 982.53 including Section 504 and the Fair Housing Amendments of 1988 at 24 CFR part 100.

Environmental Requirements- all new construction and rehabilitation for project-based assistance are subject to the HUD environmental regulations outlined at 24 CFR part

58. The HA may not attach any assistance to units unless, prior to the entering into an Agreement, the following must also occur:

The unit of local government within which the project is located which has land use responsibility, or as determined by HUD, the County of State has completed the environmental review required by 24 CFR part 58 and provided to the HA for submission to HUD, the completed request for release of funds and certifications,

HUD has approved the request for release of funding, pursuant to part 58 regulations.

Other Federal Requirements-The following must also be met, if applicable and the HA shall determine if applicable and advise the project owner of requirements.

The Clean Air Act and the Federal Water Pollution Control Act

The Flood Disaster Protection Act of 1973

Section 3 of the Housing and Urban Development Act of 1968

Executive Order 11246, Equal Employment Opportunity for all construction contracts over $10,000.

Executive Order 11625, Prescribing Additional Arrangements for Development and Coordinating a National Program for Minority Business Enterprises

Executive Order 12432, Minority Business Enterprise Development and 12138, creating a National Women's Business Enterprise Policy

Payment of not less than the wages prevailing in the locality as determined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the construction or rehabilitation of the project under an Agreement covering nine or more assisted units, and compliance with the Contract Work Hours, and Safety Standards Act, Department of Labor regulations at 29CFR part 5, and other Federal laws and regulations relating to labor standards applicable to such an Agreement for project based assistance to rehabilitate or construct.

The Provisions of part 24 relating to the employment, engagement of services, awarding contracts, or funding of any contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

K. AGREEMENT FOR NEW CONSTRUCTION AND REHABILITATION

After all selection criteria and review requirements are met, the HA shall enter into an Agreement with the project owner on a form proscribed by HUD for project based Section 8 assistance.

The Agreement must be executed prior to any new construction or rehabilitation of units.

Under the Agreement the owner agrees to construct the units in accordance with the HA approved working drawings and specifications. In the case of rental rehabilitation, to rehabilitate the units in accordance with the HA approved work write-ups.

The Agreement must list the initial contract rents that will apply to the units after they are constructed or rehabilitated.

The amounts that are the contract rents are listed in the Agreement and must be the initial contract rents upon execution of the HAP contract.

The initial contract rents may only be increased if:

The project is financed by a HUD insured or coinsured multifamily mortgage;

The initial contract rents listed in the Agreement were based on the amount determined by HUD to be necessary to amortize the insured or co-insured mortgage; and

The HUD field office approves a cost increase prior to closing. In such instance, the HUD field office may re-determine the initial contract rents.

L. OWNER RESPONSIBILITIES DURING CONSTRUCTION OR REHABILITATION (not applicable to existing housing not having rehabilitation)

The owner is responsible for selection of a competent contractor to undertake the rehabilitation or new construction.

The owner may not award contracts, or otherwise engage the services of, or fund any contractor, or subcontractor, to perform any work, that fails to provide a certification that neither it or its principals is presently debarred, suspended, or placed in ineligibility status under 24CFR part 24, or is on the list of debarred list of contractors or ineligible, pursuant to 24 CFR part 24. The HA must promote opportunities for minority contractors to participate in the program.

After the Agreement has been executed the owner must promptly proceed with the construction or rehabilitation work as outlined in the Agreement. In the event the work is not timely commenced, diligently continued, or completed, the HA may terminate the Agreement or take appropriate action.

Prior to any changes the Owner must obtain HA approval if the work deviates from the original Agreement or that would alter the design or the quality of the required new construction or rehabilitation.

The HA may disapprove any changes requested by the owner.

The HA may require the owner to remedy any deficiencies, prior to, and as a condition for, acceptance of the units.

If the owner makes any changes without prior HA approval, the HA may lower the initial contract rents in an amount determined by the HA (or in the case of HA owned or controlled units, HUD may lower the rents), and may require the owner to remedy any deficiencies, prior to, and as a condition of acceptance of the units for project basing.

When a HUD insured or HUD co-insured multifamily mortgage is utilized to finance new construction or rehabilitation, of units which will be project based, the HUD field office may lower the initial contract rents to reflect any reduction in the amount necessary to amortize the insured or co-insured mortgage.

The Initial contract rents must not be increased, due to any change from the work specified in the Agreement as originally executed.

At completion of the work, the owner must notify the HA when the work is completed and submit to the HA the evidence of completion. Evidence of completion is submittal of a certificate of occupancy issued by the building official or other approval as required by the locality.

The owner must certify that the work has been completed in accordance with the requirements of the Agreement and that:

There are not defects or deficiencies in the work with the exception of minor items that are incomplete due to weather conditions and do not preclude or affect occupancy;

The units have been constructed or rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations. The appropriate offices may modify or waive any of the foregoing.

That for any units built prior to 1978, the units are in compliance with the Lead based paint requirements.

That the owner has complied with any applicable labor standards requirements in the Agreement.

On rehabilitation projects for which a HUD field office construction inspection is not required during construction, a certification from the owner which states that the units have been rehabilitated in accordance with the certified working drawings and specifications, housing quality standards, local codes and ordinances, and zoning requirements.

At least 60 days prior to the scheduled completion of the new construction or rehabilitation, the owner must notify the HA of any units expected to be vacant on the anticipated effective date of the HAP contract.

The HA must refer to the owner, appropriate sized families from the waiting list to the project owner for approval as a tenant.

M. HA RESPONSIBILITIES DURING CONSTRUCTION OR REHABILITATION

The HA must inspect during the construction or rehabilitation to ensure that the work is proceeding on schedule and is being accomplished in accordance with the terms of the Agreement.

The purpose of the inspection is to ensure that the work meets the types of materials specified in the work write-ups or working drawings and specifications, and meets typical levels of workmanship in the area.

After completion of construction the HA must review the evidence of completion to determine if the project is in compliance with the regulations outlined above and in 983.104.

The HA must inspect the units to be assisted and determine that the units have been completed in accordance with the Agreement.

The HA must inspect the units to assure that they are in compliance with Housing Quality Standards (HQS) If the HA final inspection of the units reveals any defects or deficiencies; the inspector must report these in detail to the owner.

If there are any delayed items for completion which are minor in nature, or that are incomplete due to weather conditions, and that do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the HA may accept the units.

The HA must require the owner to deposit into an escrow account with the HA, funds sufficient to ensure completion of the delayed work items.

The HA and the owner must execute a written Agreement specifying the schedule for completion of the delayed items.

If the items are not completed within an agreed upon time period, the HA may terminate the HAP contract or exercise other rights under the HAP Contract.

If other deficiencies exist the HA must determine whether the deficiencies are correctable, and to the extent that they are correctable, and if an extension of time is warranted.

Additionally, HUD must determine if the contract rents should be reduced.

If the HA determines the deficiencies are so extensive, and the units may not be accepted, the owner must be notified with a statement of the reasons for non-acceptance.

If the HA finds from the review of the Agreement and the inspection that the units have been completed in accordance with the Agreement, the HA must accept the units.

The HA must execute the HAP contract if the HA accepts the units.

The effective date of the HAP contract shall not be earlier than the date of the HA inspection and acceptance of the units. After commencement of the HAP contract, the HA must make monthly housing assistance payments for each unit that is under lease by a family.

N. OPERATIONS PLANS

The HA will utilize a merged list for project based Section 8 rental assistance.

The HA will select families based upon time and date of application.

The HA will select families from the waiting list, provide housing information to families selected, and refer them to the project owner.

Other factors in Project Based Section 8- the HA may in selecting a family for a particular unit, match other characteristics of the applicant family with the type of unit available, such as the number of bedrooms.

Admission to the project-based voucher program is subject to the same statutory income-targeting requirement as the tenant-based program (i.e., 75% of all new admission must be extremely low-income families).

The HA may place applicants which are referred by owners on the HA waiting list in accordance with the HA local waiting list policies and selection preferences that are consistent with the selection preferences in the HA Plan.

Except for special admissions and admissions pursuant to G of this section, participants must be selected from the HA waiting list. The HA will select participants from the waiting list in accordance with the admission policies of the HA Administrative Plan.

O. HA DETERMINATION OF ELIGIBILITY OF IN-PLACE FAMILIES

Before the HA selects a specific unit to which assistance is to be attached, the HA will determine if the unit is occupied, and if occupied, whether the unit's occupants are an eligible family (including a singe person) and if eligible the HA selects the unit, the family must be afforded the opportunity to lease that unit or another appropriately sized, project based assisted unit in the project, without requiring the family to be placed on the waiting list. An HA shall not select a unit, enter into an Agreement or HAP contract, if the unit is occupied by persons who are not income eligible for participation in the program.

P. FILLING VACANT UNITS

When the owner notifies the HA of vacancies in the units to which assistance is attached, the HA will refer to the owner one or more families of the appropriate size on its waiting list. A family may refuse to lease a unit assisted by project-based assistance, and still retain its place on the waiting list.

Q. CONTINUED ASSISTANCE FOR VACANT UNITS

The HA may continue providing assistance for a vacant unit, after initial lease-up, for a maximum of 60 days. Such payments may only be made if the vacancy is not the fault of the owner, and the owner takes "every reasonable action" to minimize the extent of the vacancies.

R. RENTS

For units that are not HUD insured or HA owned, the HA approves the initial rent to owners for project based section 8 units, that are not financed with a HUD insured multifamily mortgage, and are not owned by the HA.

For units that are insured or HA owned, or project based units financed with a HUD multifamily mortgage, the initial rents must be approved by HUD.

For rent adjustments for HA owned units, the HA must request HUD approval of the annual adjustment of rents. The HA may not increase the rent at the annual anniversary until and unless HUD has reviewed the HA comparability study, and has approved the rent adjustment.

The initial rent to owner for a unit shall not exceed the reasonable rent as determined by the HA, in accordance with Section 983.256.

Except to correct errors in establishing initial rents, in accordance with HUD requirements, the adjusted rent to the owner must not be less than the initial rent.

The HAP contract will establish initial gross rents that do not exceed the 110% of the established FMR or any HUD approved "exception payment standard".

The HAP contract must provide for adjustment of rent to owner during the contract term, and the adjusted rents must be reasonable in comparison with rents charged for comparable units in the private, unassisted local market.

If a unit is allocated Low Income Tax Credits, and is not in a "qualified census tract" the rent to owner may be established at any level that does not exceed the rent charge for comparable units in the same building that receive the tax credit, but do not have additional rental assistance attached to them. The HA does not need to restrict project based Section 8 rents to the tax credit rents if the tax credit rents are lower than the published FMR.

Owner request for adjustment and compliance with the HAP Contract- At each annual anniversary date of the HAP contract, the HA must adjust the rent to owner in accordance with the following requirements:

The owner must request a rent increase (that includes a comparability study to determine the amount of such increases) by written notice to the HA at least 120 days before the HAP contract anniversary. **The HA format for request for rent increase is attached in Attachment 2.**

The owner must request the increase by the 120-day notice deadline; and during the year before the contract anniversary, the owner must have complied with all of the requirements of the HAP contract, including compliance with HQS for all units under contract.

The adjusted rent to owner must be reasonable in comparison with rents charged for comparable units in the private unassisted local market in accordance with Section 983.256.

Special Adjustments of Rent to Owner-Does not apply to HAP contracts for existing units and HAPs entered into or on or after January 16, 2001.

Rent Reasonableness

The HA may not enter into any agreements to enter into HAP contracts until the HA determines that the initial rent to the owner under the contract is a reasonable rent.

During the term of the HAP contract the HA must continue to re-determine that the rent to owner does not exceed the reasonable rent.

Reasonable rents must be determined by the comparison method, based upon the location, quality, size, unit type, and age of the contract unit, and any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

For tax credit projects which also apply for project based Section 8, and is not in a qualified census tract the rent to owner may be established at any level that does not exceed the rent charge for comparable units in the same building that receive the tax credit but do not have additional rental assistance. The HA does not need to restrict PBA rents to the tax credit rents if the tax credit rents are lower than the published FMR.

For HOME assisted projects which apply for project based Section 8 the low and high home rents may be the FMR.

The HA must also:

Brief the family in accordance with the Section 8 program regulations, and Administrative Plan,

Approve contract rent adjustments, and make rent reasonableness determinations for units that are not HA owned;

Inspect the project before, during and upon completion of new construction or rehabilitation; and

Ensure that the amount of assistance that is attached to units is within the amounts outlined in the ACC, and the payment standard for the area.

The HA must determine Eligibility of the families assisted based upon income and eligibility criteria established by the Section 8 regulations, and One Strike Regulations.

With the exception of special admissions and units which are vacant for more than 30 days, participants must be selected from the HA Project-based *waiting list. Project basing of existing units must have income eligible residents in order to be eligible for project basing.*

When a family is selected to occupy a project-based unit, the HA must provide the family with information concerning the tenant rent and any applicable utility allowances, and a copy of the HUD lead based paint brochure.

The family must also, in either group or individual sessions, be provided with a full explanation of the following:

Family and owner responsibilities under the lease and HAP contract;

Information on Federal, State and local equal opportunity laws;

The fact that the subsidy is tied to the unit and that the family must occupy a unit constructed or rehabilitated under the program, and that a family that moves from the unit does not have any right to continued assistance;

The likelihood of the family receiving a voucher after the HAP contract expires on the unit;

The family's options under the program, if the family is required to move because of a change in family size or composition;

Information on the HA procedures for conducting information hearings for participants, including a description of the circumstances in which the HA is required to provide the opportunity for an informal hearing, and of the procedures for requesting a hearing.

S. CONTINUED ASSISTANCE FOR A FAMILY AFTER TERMINATION OF A LEASE OR WHEN HAP CONTRACT IS TERMINATED

A family may choose to move out of a PBA unit with continued assistance at any time after 12 month.. The HA must offer the family available tenant based assistance either as a voucher or a form of assistance that is comparable to the voucher program, that is defined in HUD regulations. *If there are no vouchers available, the HA must give priority for next available voucher (except for special purpose vouchers).*

Continued Assistance for a Family when the HAP Contract is terminated:

If the HAP contract with the owner expires, the HA does not renew the HAP contract, or the HA terminates the assistance to the owner the HA must:

The HA must issue the assisted family in occupancy of a unit a voucher under the HA voucher program, unless the HA has determined that it does not have sufficient funding for continued assistance for the family, or unless the HA denies issuance of a voucher in accordance with 982.552.

If the unit is not occupied by an assisted family, then the available funds under the ACC that were previously committed for the support of the project based assistance for the unit, shall be used for the HA regular voucher program.

T. HA INSPECTION OF UNITS AND HA REEXAMINATION OF FAMILY INCOME AND COMPOSITION

PBA units must meet HQS before the effective date of the HAP contract.

In addition to the inspections that are required prior to the execution of the HAP contract, the HA must only inspect annually a representative sample of units in a project/building and at such other times as may be necessary to assure the owner is meeting the obligations to maintain the unit in decent, safe and sanitary conditions and to provide the agreed upon utilities and other services.

The HA must take into consideration, complaints and any other information coming to its attention when scheduling inspections.

For any units found during annual inspection, to be not decent, safe and sanitary, upon notification to the owner by the HA, that the units under the HAP contract are not being maintained.

If the owner fails to take corrective action within the time prescribed in the notice, the HA may exercise any of the rights or remedies under the HAP contract, including abatement of housing assistance payments, even if the family continues in occupancy; termination of the HAP contract on the affected unit or units, and termination of assistance to the family in accordance with Section 8 program regulations.

Enforcement of HQS- at 24 CFR part 982 and 983 does not create any right of the family or any party other than HUD or the HA to require enforcement of the HQS requirement by HUD or the HA, or to assert any claim against HUD or the HA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

The HA must re-examine the income and family composition of all families at least once every 12 months.

After consulting with the family and verifying the family's information, the HA must make appropriate adjustments to the total tenant payment in accordance with the Section 8 program regulations.

The HA must make a determination whether the family's unit size is still appropriate. The HA must adjust tenant rent, and the housing assistance payment to reflect any change in total tenant payment, if necessary.

If the HA determines that a unit is not decent, safe and sanitary due to an increase in the family size that causes the unit to be overcrowded, or that a contract unit is larger than appropriate for the size of the family that occupies the unit under the HA subsidy standards, housing assistance payments with respect to the unit may not be terminated for this reason.

The owner must offer the family a suitable alternative unit if one is available and the family will be required to move.

If the owner does not have available a suitable size unit within the family's ability to pay the rent, the HA, if it has sufficient funding, must offer Section 8 tenant based assistance to the family or otherwise assist the family in locating other standard housing in the HA's jurisdiction, and require the family to move to such a unit as soon as possible.

The family must not be forced to move, nor shall housing assistance payments under the contract be terminated for the above reasons occur, unless the family rejects, without good reason, the offer of a unit which the HA judges to be acceptable.

U. OWNERS RESPONSIBILITIES

The owner is responsible for performing all of the owner responsibilities under the Agreement and the HAP contract.

The owner must rent all vacant units to eligible families referred by the HA from its waiting list. If the HA does not refer a sufficient number of interested applicants on the HA waiting list to the owner within 30 days of the owner's notification to the HA of a vacancy, the owner may

advertise or solicit for applications from eligible very low-income families. The owner must refer these families to the HA for eligibility determination under the Section regulations.

The owner must provide all the services, maintenance and utilities as agreed under the HAP contract, subject to abatement of housing assistance payments or other applicable remedies if the owner fails to meet these obligations.

The owner is responsible for screening and selection of tenants. The owner must adopt written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families, and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

The owner when offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, may require the applicant to agree, and may incorporate this agreement into the Lease, to move to a non-accessible unit when one is available.

The owner must promptly notify in writing any rejected applicant of the grounds for any rejection of the applicant referred by the HA.

If the owner rejects an applicant family who believes that the rejection is the result of unlawful discrimination, the family may request the assistance of the HA in resolution of the issue. The family is also entitled to file a discrimination complaint with the HUD field office or exercise other rights provided by law.

The Lease between the family and the owner must be in accordance with Section 983.206 and any other applicable HUD regulations. The lease must include all requirements of HUD and must not include any provisions prohibited by HUD.

V. LEASE REQUIREMENTS

The lease must be in accordance with Section 983.206.

The amount of rent payable by the Family to the owner is the tenant rent.

The term of the lease including any new lease or lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the HAP contract if the term of the HAP contract remaining is less than one year.

The lease may contain a provision permitting the family to terminate the lease on not more than 60 days advance written notice to the owner. In the case of a lease term for more than one year, the lease must contain a provision permitting the family to terminate the lease on such notice after the first year of the term.

The owner may offer the family a new lease for execution by the family for a term beginning at any time after the first year of the term of the lease.

The owner must give the family written notice of the offer at least 60 days before the proposed commencement date of the new lease term. The offer may specify a reasonable time for acceptance by the family.

Failure by the family to accept the offer of a new lease in accordance with this paragraph shall be "other good cause" for termination of tenancy.

W. ACCESSIBLE UNITS LEASED TO NON-DISABLED FAMILIES

When offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, the owner may require the applicant to agree to move to a non-accessible unit if one is available so that a tenant who requires an accessible unit may be accommodated.

The owner may incorporate this agreement into the lease, and may require the tenant pursuant to the lease to move to a non-accessible unit, if and when one is available.

In the selection of a family for a unit that has special accessibility features, the responsible entity must give preference to families who include persons with disabilities and can benefit from those features of the unit.

X. TERMINATION OF TENANCY AND THE FILLING OF VACANT UNITS

During the term of the lease agreement, the owner may not terminate the tenancy except on the following grounds:

Serious violation including but not limited to failure to pay rent or other amounts due to the owner under the lease

Repeated violation of the terms and conditions of the lease;

Violation of Federal, State and local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or

Other good cause- includes, but is not limited to the following:

> Failure by the family to accept the offer of a new lease or revision; a family history of disturbance of neighbors or destruction or property, or of living or housekeeping habits resulting in damage to the unit or premises

Filling Vacant Units

The owner will notify the HA of vacancies of units under contract for Section 8 assistance.

The HA will refer to the owner one or more families of the appropriate size *and income limit in order to meet the income targeting requirement of 75% of families admitted to the HA's combined tenant-based and PBA program from* the HA's Countywide Project Based Section 8 waiting list.

A family, who refuses the offer of a unit assisted with Project Based Section 8 assistance, keeps its place on the project-based waiting list.

The project owner shall rent all vacant units under contract to eligible families referred by the HA from its waiting list.

The HA must determine eligibility for participation in accordance with HUD regulations for the Section 8 program.

The unit owner is responsible for screening and selection of tenants, with the exception of one strike screening, which is outlined below.

The owner must adopt written tenant selection procedures, which are consistent with the purpose of improving housing opportunities for extremely low-income and very low-income families.

The selection criteria must be reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

The project owner is required to immediately notify in writing any rejected applicant of the grounds for any rejection to lease a unit.

In the event that the HA does not refer an adequate number of eligible participants on the HA waiting list to the owner within 30 days of the owner's notification of a vacancy, the owner may advertise for or solicit applications from eligible extremely low and very low-income families.

The owner must refer these families to the HA to determine program eligibility.

A family is considered to be a participant family when the family and the owner enter into a lease agreement for a unit assisted with project based Section 8.

In the event an owner rejects an applicant family, who believes that the rejection was the result of unlawful discrimination, the family may request the assistance of the HA in resolving the issue.

The family may file a discrimination complaint with the HUD field office or exercise other rights as provided by law.

Y. OVERVIEW OF APPLICABILITY OF ONE STRIKE PROVISIONS

Part X of 24 CFR Part 5 outlines the requirements of the HA in administering federal assistance and applicability of the One-Strike Screen and Eviction for Drug Abuse and Other Criminal Activity to any projects, which are HUD assisted.

HA's and assisted owners have the tools for adopting and implementing fair, effective, and comprehensive polices for denying admission to applicants who engage in illegal drug use or other criminal activity and for evicting or terminating assistance of persons who engage in such activity.

The 1998 Housing Quality Act broadened the prohibition of drug related criminal activities to include the denial of housing assistance to any sex offender which is subject to a lifetime registration requirement under a State sex offender's registration program.

Also persons are barred who have been convicted of manufacturing or producing met amphetamine. Persons who are fleeing to avoid prosecution or custody or confinement after conviction for a felony are also prohibited from receiving assistance.

The project owner shall request the HA to obtain criminal records and perform determinations for the owner regarding screening applicants, lease enforcement or eviction for developments located in the HA jurisdiction.

The HA shall charge the owner a fee for obtaining the record and performing the screening and evaluation services.

The owner must provide the HA with a consent form signed by the tenant or applicant.

The HA must not give the criminal record, or disclose its content, to the owner.

The HA must use the record to screen the tenant based on the owner's standards for tenant selection.

The records shall be administered pursuant to the HA records management system which ensures that criminal records and records from drug abuse treatment facilities are maintained

confidentially, are not misused or improperly disseminated, and are destroyed within the statutorily prescribed time frames.

Z. FAMILY RESPONSIBILITIES

The family is required to supply any information requested by the HA, or HUD concerning changes in income, family composition, additional adult family members or other necessary information as required by regulation.

Eligibility may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

The HA must verify any change in the family's income or other circumstances that results in an adjustment in the total rental payment, tenant rent, and housing assistance payment.

In the event that the HA receives information concerning a change in the family's circumstances or income between regularly scheduled reexaminations, the HA must consult with the family and may any necessary adjustments that are appropriate in the family's rent or unit size.

The family's eligibility for housing assistance payments continues until the total tenant payment equals the gross rent.

The termination of eligibility at that point shall not affect the family's rights under the lease with the owner, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the HAP contract.

The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information in accordance with HUD regulations for the Section 8 program. All information supplied by the family must be true and complete.

The family must submit required evidence of citizenship or eligible immigration status. Part 5-General HUD Program Requirements and Subpart E apply regarding Restrictions on Assistance to Non-citizens.

The HA must approve the composition of the family residing in the unit.

The family must promptly notice the HA of the birth, adoption or court awarded custody of a child. The family must request HA approval to add any other family member as an occupant of the unit.

The family must notify the HA if any family member no longer resides in the unit.

If the HA has given approval, a foster child or live in-aide may reside in the unit, pursuant to the HA policies outlined in the Administrative Plan.

All One Strike provisions and criminal background checks must be provided prior to assistance of the family. Pursuant to 982.553, the family members may not engage in drug related criminal activity, or violent criminal activity.

Criminal background checks must be conducted for any adult family member added to the lease agreement after the family becomes assisted by the Section 8 project based program.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the program.

The family may not commit any serious or repeated violation of the lease.

The family must notify the HA and the owner before the family moves out of the unit. If the family terminates the lease on notice to the owner, the family must give the HA a copy of the notice of termination at the same time. Failure to do so is a breach of family obligations under the program.

The family must supply any information or certification requested by the HA to verify that the family is living in the unit, or relating to family absence from the unit, including any HA requested information or certification on the purposes of family absences.

The family must cooperate with the HA for this purpose.

The family must promptly notify the HA of the absence from the unit.

The family must use the assisted unit for resident by the family. The unit must be the only residence of the family.

The family must not own or have any interest in the unit.

The family must not sublease the unit; the family must not assign the lease or transfer the unit.

The family must promptly give the HA a copy of any owner eviction notice.

The family is responsible for any HQS breach caused by the family as described in 24 CFR part 982.404.

The family must allow the HA to inspect the unit at reasonable times and after reasonable notice.

Chapter 21

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HACM policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the HACM will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

21-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

HACM POLICY

The HACM will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HACM is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HACM is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

21-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HACM policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

HACM POLICY

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACM policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

21-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HACM may not use voucher program funds to cover relocation costs, except that HACM may use the administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the HACM to ensure the owner complies with these requirements.

21-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The HACM must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the HACM must comply with the HACM Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

21-II.A. OVERVIEW

The HACM must describe the procedures for owner submission of PBV proposals and for HACM selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the HACM must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

21-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The HACM must select PBV proposals in accordance with the selection procedures in the HACM administrative plan. The HACM must select PBV proposals by either of the following two methods.

- HACM request for PBV Proposals. The HACM may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HACM request. The HACM may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The HACM may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

HACM's procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the HACM. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the HACM request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HACM POLICY

HACM Request for Proposals for Rehabilitated and Newly Constructed Units

The HACM will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the Salinas Californian newspaper.

In addition, the HACM will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HACM will publish its advertisement in the Salinas Californian Newspaper for one day. The advertisement will specify the number of units the HACM estimates that it will be able to assist under the funding the HACM is making available. Proposals will be due in the HACM office by close of business 30 calendar days from the date of the publication.

In order for the proposal to be considered, the owner must submit the proposal to the HACM by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HACM will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the HACM goal of deconcentrating poverty and expanding housing and economic opportunities;

In the case of projects for occupancy by the elderly or persons with disabilities, the HACM will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

HACM Requests for Proposals for Existing Housing Units

HACM POLICY

The HACM will advertise its request for proposals (RFP) for existing housing in the Salinas Californian newspaper for one day.

In addition, the HACM will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

Advertisement

The advertisement will specify the number of units the HACM estimates that it will be able to assist under the funding the HACM is making available. Owner proposals will be accepted on a first-come first served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the HACM's goal of deconcentrating poverty and expanding housing and economic opportunities;

HACM Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACM will consider those proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits only during the RFP process.

Proposals will be reviewed on a first-come first-served basis under the RFP process. The HACM will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers the HACM goal of deconcentrating poverty and expanding housing and economic opportunities; and whether the project is consistent with HACM policies and extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

All proposals that have been competively selected under a previous competition and meet the criteria above will be rated prior to other proposals.

In the case of projects for occupancy by the elderly or persons with disabilities, the HACM will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

HACM-owned Units [24 CFR 983.51(e) and 983.59]

A HACM-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HACM-owned units were appropriately selected based on the selection procedures specified in the HACM administrative plan. If the HACM selects a proposal for housing that is owned or controlled by the HACM the HACM must identify the entity that will review the HACM proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of HACM-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the HACM jurisdiction (unless the HACM is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HACM POLICY

The HACM may submit a proposal for project-based housing that is owned or controlled by the HACM. If the proposal for HACM-owned housing is selected, the HACM will use SOLEDAD

HOUSING AUTHORITY OR UNIVERSAL INSPECTIONS INC to conduct the inspections and approve the rents. The HACM has obtained HUD approval of SOLEDAD HOUSING AUTHORITY AND UNIVERSAL INSPECTIONS INC prior to any selection of proposals by HUD.

The HACM may only compensate the independent entity and appraiser from HACM ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HACM may not use other program receipts to compensate the independent entity and appraiser for their services. The HACM, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

HACM Notice of Owner Selection [24 CFR 983.51(d)]

The HACM must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACM POLICY

Within 14 calendar days of the HACM making the selection, the HACM will notify the selected owner in writing of the owner's selection for the PBV program. The HACM will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACM will publish its notice for selection of PBV in the same newspaper of wide circulation the HACM used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HACM will also post the notice of owner selection on its electronic web site.

The HACM will make available to any interested party it's rating and ranking sheets and documents that identify the HACM basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The HACM will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HACM will make these documents available for review at the HACM during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

21-II.C. HOUSING TYPE [24 CFR 983.52]

The HACM may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HACM selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The HACM must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The HACM choice of housing type must be reflected in its solicitation for proposals.

21-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The HACM may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the HACM may not attach or pay PBV assistance for a unit occupied by an owner and the HACM may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

The PHA may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the PHA determination. The PHA may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

HACM POLICY
The HACM will not use high-rise (5 or more stories) elevator projects for families with children.

Subsidized Housing [24 CFR 983.54]

HACM may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a HACM may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HACM in accordance with HUD requirements.

21-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The HACM may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HACM must submit the necessary documentation to HUD for a subsidy layering review. The HACM may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

21-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, the HACM may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families.

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

HACM POLICY
The HACM will not require families living in excepted units to receive supportive services. Therefore, excepted units will be limited to units in single-family buildings and those made available for elderly and/or disabled families.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-building cap of less than 25 percent.

HACM P0LICY
The HACM will not provide assistance for excepted units. Beyond that, the HACM will not impose any further cap on the number of PBV units assisted per building.

21-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The HACM may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the HACM has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the HACM Plan under 24 CFR 903 and the HACM administrative plan.

In addition, prior to selecting a proposal, the HACM must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

HACM POLICY
It is the HACM goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the HACM will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the HACM will grant exceptions to the 20 percent standard where the HACM determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances, will the HACM approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate or forty percent, whichever is lower.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The HACM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the HACM determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of

minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

21-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The HACM activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HACM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACM may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACM, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACM must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HACM must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

21-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

21-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 does not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

21-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

21-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The HACM must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HACM must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the HACM may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The HACM must inspect each contract unit before execution of the HAP contract. The HACM may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the HACM must inspect the unit. The HACM may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the HACM must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the HACM must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The HACM must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACM must take into account complaints and any other information coming to its attention in scheduling inspections.

The HACM must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HACM supervisory quality control HQS inspections, the HACM should include a representative sample of both tenant-based and project-based units.

Inspecting HACM-owned Units [24 CFR 983.103(f)]

In the case of HACM-owned units, the inspections must be performed by an independent agency designated by the HACM and approved by HUD. The independent entity must furnish a copy of each inspection report to the HACM and to the HUD field office where the project is located. The HACM must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the HACM-owner. HUD approved entities to conduct inspections and approve rents set by a state certified appraiser are Soledad Housing Authority and Universal Inspections Inc.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

21-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

21-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the HACM must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HACM agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HACM will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after HACM notice of proposal selection to the selected owner. However, the HACM may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HACM may not enter into the Agreement until the environmental review is completed and the HACM has received environmental approval.

HACM POLICY

The HACM will enter into the Agreement with the owner within 14 calendar days of receiving both environmental approval and notice that subsidy-layering requirements have been met, and before construction or rehabilitation work is started.

21-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relation's laws and regulations. The HACM must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

21-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the HACM in the form and manner required by the HACM:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the HACM's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACM POLICY

The HACM will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HACM will specify any additional documentation requirements in the Agreement to enter into HAP contract.

HACM Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the HACM must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The HACM must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the HACM must not enter into the HAP contract.

If the HACM determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACM must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

21-V.A. OVERVIEW

The HACM must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

21-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The HACM may not enter into a HAP contract until each contract unit has been inspected and the HACM has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the HACM selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HACM has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

HACM POLICY

For existing housing, the HAP contract will be executed within 14 calendar days of the HACM determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 14 calendar days of the HACM determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The PHA enters into a HAP contract with an owner for an initial term of no less than one year and no more than ten years.

HACM POLICY

The term of all HACM PBV HAP contracts will be negotiated with the owner on a case-by-case basis for terms of 5 (minimum) to 10 years (maximum).

Within one year before expiration of the HAP contract, the HACM may extend the term of the contract for an additional term of up to five years if the HACM determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

HACM POLICY

When determining whether or not to extend an expiring PBV contract, the HACM will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by HACM [24 CFR 983.205(c)]

The HAP contract must provide that the term of the HACM's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HACM in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the HACM may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the HACM. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

The HACM may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the HACM determines that a contract does not comply with HQS, the HACM may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HACM POLICY

The HACM will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 8-II.G. of the Section 8 HCV Administrative Plan, Enforcing Owner Compliance.

21-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At the HACM's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the HACM must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At the HACM's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the HACM's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HACM POLICY

The HACM will consider adding contract units to the HAP contract at the written request of the owner when the HACM determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty in finding units that meet program requirements.
- Availability of funds.

21-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

21-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HACM, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

21-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the HACM and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACM POLICY
The HACM will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACM will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

HACM POLICY
The HACM will provide vacancy payments on any units with an AHAP or Contract signed before December 18, 2006. AHAP or Contracts signed after that date will not provide any vacancy payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

21-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

21-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the HACM, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the HACM's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACM POLICY

The HACM will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3 of the Section 8 HCV Administrative Plan.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the HACM is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the HACM's waiting list. Once the family's continued eligibility is determined (the HACM may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the HACM must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

21-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

HACM POLICY

The HACM will establish and manage three separate geographic waiting lists for Salinas, the Monterey Peninsula and South County.

Applications will be accepted for the PBV Program, even when applications for the HCV Program are closed, if waiting lists by bedroom size have been depleted, upon announcement by the HACM.

21-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the HACM's waiting list. The HACM may establish selection criteria or preferences for occupancy of particular PBV units. The HACM may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent (unless HACM is granted a waiver for a lower percentage) of the families admitted to the HACM's tenant-based and project-based voucher programs during the HACM fiscal year from the waiting list must be extremely low-income families. The income-targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HACM must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has buildings with more than 25 percent of the units receiving project-based assistance because those buildings include "excepted units" (units specifically made available for elderly or disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

HACM POLICY

The HACM will provide for all three geographic waiting lists a selection preference for the following:

- Eligible in-place families; (25 points)
- Qualifying families for "excepted units," (elderly / persons with disabilities) (10 points)
- Mobility impaired persons for accessible units (10 points)
- Applicants/participants that have a Housing Choice Voucher (10 points)

21-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The HACM is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;

- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HACM's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the HACM must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the HACM must provide a briefing packet that explains how the HACM determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the HACM must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the HACM must have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The HACM should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

21-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the HACM from the HACM's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the HACM's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the HACM of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HACM must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HACM and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACM POLICY

The owner must notify the HACM in writing (mail, fax, or e-mail) within 5 calendar days of learning about any vacancy or expected vacancy.

The HACM will make every reasonable effort to refer families to the owner within 14 calendar days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

HACM POLICY

If any contract units have been vacant for 120 days, the HACM will give notice to the owner that the HAP contract will be amended to reduce the number of contract units (according to the bedroom size) that have been vacant for this period. The HACM will provide the notice to the owner within 14 days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the HACM's notice.

21-VI.G. TENANT SCREENING [24 CFR 983.255]

HACM Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

HACM POLICY

The HACM will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The HACM must provide the owner with an applicant family's current and prior address (as shown in HACM records) and the name and address (if known by the HACM) of the family's current landlord and any prior landlords.

In addition, the HACM may offer the owner other information the HACM may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The HACM must provide applicant families a description of the HACM policy on providing information to owners, and the HACM must give the same types of information to all owners.

HACM POLICY

The HACM will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HACM will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;

- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

21-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the HACM, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

21-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

HACM POLICY
The HACM will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the HACM (the names of family members and any HACM-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HACM must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HACM a copy of all changes.

The owner must notify the HACM in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the HACM and in accordance with the terms of the lease relating to its amendment. The HACM must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HACM policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The HACM may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACM POLICY
The HACM will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of al items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance form the tenant. The HACM has no liability or responsibility for payment of any amount owed by the family to the owner.

21-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

HACM POLICY
The HACM will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 30 calendar days of the HACM's determination. The HACM will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the HACM offers the family a tenant-based voucher, the HACM must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HACM).

If the HACM offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the HACM, or both, the HACM must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HACM.

HACM POLICY
When the HACM offers a family another form of assistance that is not tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HACM will terminate the housing assistance payments at the expiration of this 30-day period.

The HACM may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the HACM to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the HACM is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the HACM must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

21-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

The HACM may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building; or
- Specifically made available for elderly or disabled families.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (e.g., due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

HACM POLICY

The HACM will provide PBV assistance for excepted units only for elderly or persons with disabilities.

PART VIII: DETERMINING RENT TO OWNER

21-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial

rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the tem of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

21-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HACM, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

HACM POLICY

Upon written request by the owner, the HACM will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HACM will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HACM may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the HACM determines it is necessary due to HACM budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACM POLICY

An owner's request for a rent increase must be submitted to the HACM 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HACM may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance

with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the HACM to the owner specifying the amount of the redetermined rent. The HACM notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HACM POLICY

The HACM will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-owned Units [24 CFR 983.301(g)]

For HACM-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HACM must use the rent to owner established by the independent entity.

21-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA.

When Rent Reasonable Determinations are required

The HACM must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HACM approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the HACM must consider factors that affect market rent. Such factors include the location, quality, size, type and

age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the HACM. The comparability analysis may be performed by HACM staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-owned Units

For HACM-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for HACM-owned units to the HACM and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HACM may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

21-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, a HACM may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;

- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

21-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the HACM must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the HACM agree on a later date.

Except for discretionary vacancy payments, the HACM may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the HACM is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

21-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HACM determines that the vacancy is the owner's fault.

HACM POLICY

If the HACM determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HACM will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACM will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the HACM, the HAP contract may provide for vacancy payments to the owner. The HACM may only make vacancy payments if:

- The owner gives the HACM prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the HACM to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the HACM and must provide any information or substantiation required by the HACM to determine the amount of any vacancy payment.

HACM POLICY

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HACM of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 14 calendar days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACM may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 14 calendar days of the HACM's request, no vacancy payments will be made.

AHAPs or Contracts signed after December 18, 2006 will not provide vacancy payments.

21-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HACM in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HACM notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the HACM is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the HACM. The owner must immediately return any excess payment to the tenant.

Tenant and HACM Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the HACM.

Likewise, the HACM is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HACM is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HACM may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the HACM must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The HACM may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HACM chooses to pay the utility supplier directly, the HACM must notify the family of the amount paid to the utility supplier.

HACM POLICY

The HACM will make utility reimbursements to the family.

21-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint

MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative fee reserve (formerly "operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). *The* written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual Income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

"As-paid" States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See Person with Disabilities.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Elderly family. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. *(CFR 5.603)*

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

Family. Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See "Disability Assistance Expense."

HAP contract. Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). *A* State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction. The area in which the PHA has authority under State and local law to administer the program.

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the PHA to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of "cooperative."

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant *(participant family).* A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

Portability. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. *A*ll HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called "tolling".

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See "Family rent to owner".

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

Attachment #9

Low Rent Conventional
Admissions and Continued Occupancy Plan

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

FOR THE

PUBLIC HOUSING PROGRAM

April 1, 1998

Revision Date	
April 20,1999	May 1, 2008
May 24, 1999	January 6, 2009
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Approved by the PHA Board of Commissioners:

Submitted to HUD:

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Introduction

ABOUT THE MODEL ACOP

REFERENCES CITED IN THE MODEL ACOP

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy. Finally, the public housing lease will affect PHA policy and therefore must be consistent with federal and state laws and regulations.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

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State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE MODEL ACOP

The model ACOP 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 ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the model ACOP or that may be helpful to you.

Abbreviations

Throughout the model ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the model 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	Verification Guidance, March , 2004 (attachment to PIH Notice 2004-1)

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Resources and Where to Find Them

Following is a list of resources helpful to the PHA or referenced in the model 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 FAQs 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 FAQs 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-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 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 2006-13 (HA), Non-Discrimination and Accessibility for Persons with Disabilities http://www.hud.gov/offices/pih/publications/notices/06/pih2006-13.pdf
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
PIH Notices (archive) http://www.hud.gov/offices/pih/publications/notices/
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 FAQs www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm
Verification Guidance, March 2004 (attachment to Notice PIH 2004-1) http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf

The HUD Web site is http://www.hud.gov/index.html.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips Web site: http://www.hud.gov/offices/adm/hudclips/.

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the County of Monterey (HACM) receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The HACM is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The HACM enters into an Annual Contributions Contract with HUD to administer the public housing program. The HACM must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the HACM and its programs with emphasis on the 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: The Public Housing Agency (PHA). This part includes a description of the HACM, 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 PHA

1-I.A. OVERVIEW

This part describes the HACM's creation and authorization, the general structure of the organization, and the relationship between the HACM Board and staff.

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1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

Public housing is funded by the federal government and administered by the Housing Authority of the County of Monterey for the jurisdiction of Monterey County, California.

PHAs are governed by a board of officials that are generally called "commissioners." Although some PHAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the PHA conducts business, and ensures that those policies are followed by PHA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of the PHA are taken through written resolutions, adopted by the board and entered into the official records of the PHA.

The principal staff member of the HACM is the executive director (ED), who is selected and hired by the board. The ED oversees the day to day operations of the HACM and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising the HACM's staff, as well as 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 PHAs, the ED is known by another title, such as chief executive officer or president.

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1-I.C. HACM MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

The HACM's mission is to provide, administer, and encourage quality affordable housing and related services to eligible residents of Monterey County.

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1-I.D. THE HACM'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the HACM is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the HACM 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 HACM's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the HACM's support systems and commitment to our employees and their development.

The HACM will make every effort to keep 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.

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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 PHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the PHA.

The job of the PHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The PHA screens applicants for public housing and, if they are found eligible and accepted, the PHA offers the applicant a unit. If the applicant accepts the offer, the PHA 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 PHA 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 PHA owns the public housing development, the PHA is the landlord. The PHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA 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 PHA enters into a contractual relationship with HUD through the ACC. The PHA 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 PHA, and the tenant – must play their important parts.

The chart on the following page illustrates key aspects of these relationships.

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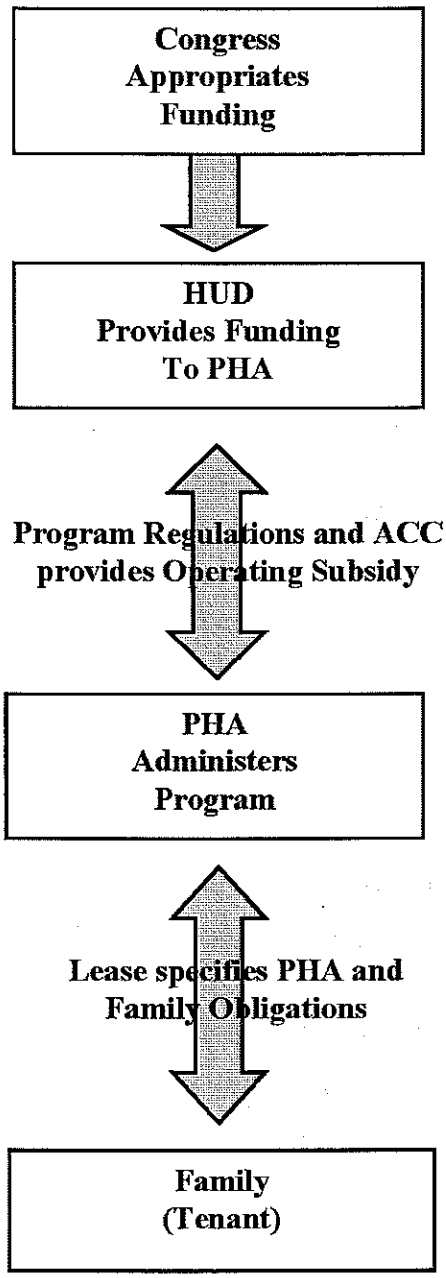
The Public Housing Relationships



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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 PHA do?

The PHA's responsibilities originate in federal regulations and the ACC. The PHA 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 PHA 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 PHA'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 PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by the PHA
- Allow the PHA 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 PHA 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 PHA 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.

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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: PHA-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 HACM'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 PHA'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 HACM 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 HACM's written policy. At a minimum, the ACOP plan should cover HACM policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any HACM admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the HACM 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 HACM of amounts the family owes the HACM (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 HACM policy for HACM management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD has made it clear that consistency in PHA conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying HACM 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 PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA's Admissions and Continued Occupancy Policy is the document that contains and clarifies PHA 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 PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA 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 PHAs 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 PHA 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 HACM, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

The HACM will review and update the ACOP to reflect changes in regulations, HACM 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 HACM's public housing operations.

This chapter describes HUD regulations and HACM policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the HACM regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the 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 HACM 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").

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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 HACM will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- 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.

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2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as HACM policies, can prohibit discrimination against additional classes of people.

The HACM shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The HACM will not discriminate on the basis of marital status or sexual orientation.

The HACM will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the 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
- 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

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Providing Information to Families

The HACM 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 HACM 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 HACM, the family should advise the HACM. HUD requires the HACM to make every reasonable attempt to determine whether the applicant's or tenant family's assertions have merit and take any warranted corrective action.

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the HACM either orally or in writing.

The HACM will attempt to remedy discrimination complaints made against the HACM.

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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 HACM must ensure that persons with disabilities have full access to the HACM's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The HACM 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)].

The HACM will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HACM, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

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2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the HACM, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the HACM shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a HACM-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACM staff
- Displaying posters and other housing information in locations throughout the HACM's office in such a manner as to be easily readable from a wheelchair

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2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the HACM treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the HACM's programs and services.

If the need for the accommodation is not readily apparent or known to the HACM, the family must explain the relationship between the requested accommodation and the disability.

The HACM will encourage the family to make its request in writing. However, the HACM will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

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2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the HACM must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the HACM's programs and services.

If a person's disability is obvious or otherwise known to the HACM, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the HACM, the HACM must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the HACM will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The HACM must request only information that is necessary to evaluate the disability-related need for the accommodation. The HACM may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

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2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

The HACM must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the HACM, or fundamentally alter the nature of the HACM's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the HACM at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the HACM may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the HACM may verify the need for the requested accommodation.

After a request for an accommodation is presented, the HACM will respond, in writing, within 10 business days.

If the HACM denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the HACM's decision through an informal hearing for applicants (if applicable) or the grievance process for tenants (see Chapter 14).

If the HACM denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the HACM's operations), the HACM will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If the HACM believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HACM will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the HACM's decision through an informal hearing for applicants (if applicable) or the grievance process for tenants (see Chapter 14).

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2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the HACM to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the HACM's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the HACM shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HACM staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

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2-II.G. PHYSICAL ACCESSIBILITY

The HACM must comply with a variety of regulations pertaining to physical accessibility, including the following.

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The HACM's policies concerning physical accessibility must be readily available to applicants and 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 HACM'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 HACM PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of HACM facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

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2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

HACM's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 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 HACM's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the HACM must consider whether reasonable accommodation will allow the family to overcome the problem that led to the HACM's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the HACM must make the accommodation [24 CFR 966.7].

In addition, the HACM must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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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 public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register.*

The HACM will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are 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 Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the HACM will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the HACM and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HACM.

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2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the HACM will generally offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person.

The HACM will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the HACM will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the HACM will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HACM. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

In order to comply with written-translation obligations, the HACM will take the following steps:

> The HACM will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
>
> If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the HACM may not translate vital written materials, but will provide 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.

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2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the HACM shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the HACM determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the HACM's public housing program and services.

If the HACM 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 PHA) 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.

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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 HACM 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 HACM 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 HACM.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the HACM's collection and use of family information as provided for in HACM-provided consent forms.
- The HACM must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the HACM.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and HACM definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the HACM 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 HACM has the discretion to determine if any other group of persons qualifies as a family.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

Household is a broader term that includes additional people who, with the HACM's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

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3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up

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 HACM will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the HACM will determine which family retains their placement on the waiting list, or will continue 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."

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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.

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.

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

Minors who are emancipated under state law may be designated as a cohead.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

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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

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 HACM will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

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.

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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 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 HACM 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 HACM 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.

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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 HACM premises [24 CFR 966.4(f)].

A resident family must notify the HACM when overnight guests will be staying in the unit for more than 1 day. A guest can remain in the unit no longer than a total of 14 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 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.

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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].

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.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

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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

Generally an individual who is or is expected to be absent from the public housing unit for 120 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 120 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HACM indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

If a child has been placed in foster care, the HACM will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. In the case of tenants, if the time period of the absence is to be more than 12 months, the family may be required to move to a smaller unit.

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Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 120 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

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 HACM will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent, unless the absence is longer than 120 consecutive days. In this case, the family member will be considered permanently absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

The family must request HACM approval for the return of any adult family members that the HACM has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter. The decision to add back an adult family member to the lease and the household is at the sole discretion of the HACM.

Absence Due to Incarceration

If the sole member of the family is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 consecutive days. The rent and other charged must remain current during this period.

The HACM will determine if the reason for incarceration is for drug-related or violent criminal activity which would threaten the health, safety and right to peaceful enjoyment of the swelling unit by other residents.

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3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The HACM must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by 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.

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.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The HACM 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 been on a federal housing program and been evicted from public housing or terminated from Section 8 due to program violations;
>
> The person is or has been engaged in other criminal activity which threatens the health or safety of other residents of the premises or vicinity or which may threaten the health or safety of the property management staff, or other persons performing administrative functions or responsibilities on behalf of HACM, including a HACM employee;
>
> The person has a history of abuse or pattern of abuse of alcohol that may adversely affect the health or safety of , or the right to peaceful enjoyment of the premises by, other residents and persons residing in the immediate vicinity of the premises;
>
> The person is subject to a lifetime registration under a State Sex Offender Registration program;
>
> The person has been convicted of manufacturing or producing methamphetamine (they are permanently prohibited);
>
> 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 PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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Within 14 business days of receiving a request for a live-in aide, including all required documentation related to the request, the HACM will notify the family of its decision in writing.

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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.

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Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted to the HACM's public housing program during a HACM fiscal year from the HACM waiting lists must be *extremely low-income* families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the HACM's housing choice voucher program during a HACM fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the HACM'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 HACM fiscal year
- Ten percent of waiting list admission to the HACM housing choice voucher program during the HACM fiscal year
- 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.

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3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the HACM's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, 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 HACM to request additional documentation of their status, such as a passport.

Family members who declare citizenship or national status will not be required to provide additional documentation unless the HACM receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with HACM efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

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Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for 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)]

HACM 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 HACM that the individual or at least one family member is eligible [24 CFR 5.512(a)].

The HACM will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When HACM determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 14 calendar days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the HACM. The informal hearing with the HACM may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 14.

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Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family the HACM must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the HACM must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

The HACM will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

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 HACM 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.

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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 HACM must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the HACM to obtain information that the HACM 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 HACM to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The HACM'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]

HACM is 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 HACM 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 HACM prohibit admission for a prescribed period of time after some disqualifying behavior or event, the HACM may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

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HUD requires the HACM to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 5 years for drug-related criminal activity. HUD permits but does not require the HACM to admit an otherwise-eligible family if the household member has completed a HACM-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  The HACM will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 years for drug-related criminal activity, if the HACM is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HACM, or the person who committed the crime is no longer living in the household.

- The HACM determines that any household member is currently engaged in the use of illegal drugs. *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)].

  Currently engaged in is defined as any use of illegal drugs during the previous 5 years.

- The HACM has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  In determining reasonable cause, the HACM will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The HACM will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

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3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require the HACM 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 HACM is responsible for screening family behavior and suitability for tenancy. In doing so, the HACM 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.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied 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].
>
> *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 HACM staff, contractors, subcontractors, or agents.
>
> Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.
>
> If any household member has been convicted of manufacturing or producing methamphetamine, they are permanently prohibited from the public housing program.
>
> In any household member is subject to a lifetime registration requirement under a State Sex Offender Registration Program, they are permanently prohibited from admission to the public housing program.

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 5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

In making its decision to deny assistance, the HACM will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

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Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the HACM 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 HACM 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 HACM 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.

The HACM will deny admission to an applicant family if the HACM determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five 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 five years (considering relevant circumstances)

Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program, unless the family repays the full amount of the debt prior to being selected from the waiting list

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 breached the terms of a repayment agreement entered into with the HACM, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list

Has engaged in or threatened violent or abusive behavior toward HACM personnel

Abusive or violent behavior towards HACM personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, the HACM will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the HACM may, on a case-by-case basis, decide not to deny admission.

The HACM 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.

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3-III.D. SCREENING

Screening for Eligibility

HACM is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the HACM in complying with HUD requirements and HACM policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records, the HACM must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The HACM may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

The HACM will perform criminal background checks through local law enforcement or other authorized agencies for all adult household members.

HACM 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 960.204(a)(4)].

If the HACM proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the HACM must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

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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 HACM 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 HACM 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 HACM has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the HACM for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

The HACM 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 HACM 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.

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Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The HACM is responsible for the screening and selection of families to occupy public housing units. The HACM 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.

The HACM 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

Previous landlord references

Compliance with any other essential conditions of tenancy including, but not limited to, the ability to follow the lease, house and program rules, and local, state and federal laws and regulations

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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.

In order to determine the suitability of applicants, the HACM will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever 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.

If an applicant has no rental payment history, the HACM 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 HACM 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 HACM, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

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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

PHA and landlord references for the past five 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 five 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.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

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

The HACM will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the HACM 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 HACM 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, HACM may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

The HACM will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of 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 HACM will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

HUD permits HACM 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.

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 HACM request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, the HACM's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the HACM will determine whether the behavior is related to the disability. If so, upon the family's request, the HACM will determine whether alternative measures are appropriate as a reasonable accommodation. The HACM will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

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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 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.

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- 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

The HACM acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, record of previous damage to an apartment, a prior arrest record) that would warrant denial under the HACM's policies. Therefore, if the HACM makes a determination to deny admission to an applicant family, the HACM will include in its notice of denial:

A statement of the protection against denial provided by VAWA.

A description of the HACM confidentiality requirements

A request that an applicant wishing to claim this protection submit to the HACM documentation meeting the specifications below with her or his request for an informal hearing (see Section 14-I.B)

Documentation

Victim Documentation

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence,, or stalking must provide a signed statement that (1) demonstrates the connection between the abuse and unfavorable history, (2) names the perpetrator of the abuse, and (3) certifies that the information provided (a) is true and correct and (b) describes the bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking. In addition, the applicant must provide on e of the following:

A police or court record documenting the domestic violence, dating violence or stalking

A statement signed by a person who has assisted the victim in addressing the domestic violence, dating violence or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim also must the documentation.

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Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

> A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit
>
> Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and the perpetrator also must sign or attest to the documentation.

Time Frame for Submitting Documentation

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 HACM will grant an extension of 14 calendar 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 HACM determines that the family is eligible for assistance, no informal hearing will be scheduled and the HACM will proceed with admission of the applicant family.

HACM Confidentiality Requirements

All information provided to the HACM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HACM will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

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3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The HACM will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If HACM uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HACM can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the HACM will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 14 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the HACM to dispute the information within that 14 day period, the HACM will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal 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.

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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-

  (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.

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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 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 HACM with the information needed to determine the family's eligibility. HUD requires the HACM to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the HACM must select families from the waiting list in accordance with HUD requirements and HACM policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The HACM 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 HACM to receive preferential treatment.

HUD regulations require that the HACM 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 HACM will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and HACM policies for taking applications, managing the waiting list and selecting families from the waiting list. The PHAs policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the HACM'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 HACM will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the HACM's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the PHA will use to keep the waiting list current.
>
> Part III: Tenant Selection. This part describes the policies that guide the HACM 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 HACM 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 HACM's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the HACM's obligation to ensure the accessibility of the application process.

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 HACM to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the HACM.

Depending upon the length of time that applicants may need to wait to be housed, the HACM 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 the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the HACM 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 the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from the HACM'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 HACM by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the HACM for processing. If an application is incomplete, the HACM will notify the family of the additional information required.

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4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The HACM must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard HACM application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

The HACM must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the HACM must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the HACM's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

HACM is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the HACM's policies related to ensuring access to people with limited English proficiency (LEP).

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4-I.D. PLACEMENT ON THE WAITING LIST

The HACM must review each completed application received and make a preliminary assessment of the family's eligibility. The HACM must place on the waiting list families for whom the list is open unless the HACM determines the family to be ineligible. Where the family is determined to be ineligible, the HACM 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

If the HACM 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 HACM will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

The HACM will send written notification of the preliminary eligibility determination. 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 HACM preference(s) and the date and time their complete application is received by the HACM.

The HACM 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 HACM standards and local codes). However, in these cases, the family must agree not to request a transfer unless they have a change in family size or composition.

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PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The HACM 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 HACM may structure its waiting list and how families must be treated if they apply for public housing at a HACM that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The HACM's public housing waiting list must be organized in such a manner to allow the HACM to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

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 PHA offers site-based waiting lists)

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The HACM may adopt one community-wide waiting list or site-based waiting lists. The HACM 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)].

The HACM will maintain one single community-wide waiting list for its Salinas family developments. Within the list, the HACM 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). These developments include:

AMP 101 – Laguna Haciendas

AMP 107 – Oceanview Apartments

AMP 108 – Scattered Sites

AMP 114 – Northridge Plaza

AMP 119 – El-Gin Village

AMP 120 – Scattered Sites

In addition, the HACM will adopt site-based waiting lists for those developments outside of the Salinas city limits. These developments include:

AMP 102 – Gabilan Vista, Gonzales, CA (family)

AMP 103 – Casa Santa Lucia, Gonzales, CA (family)

AMP 105 – Casa de Oro, Gonzales, CA (Elderly)

AMP 111 – Scattered Sites, Monterey, CA (Family)

AMP 112 – Los Ositos, Greenfield, CA (Elderly)

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 HACM 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 HACM maintain a single merged waiting list for its public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

The HACM will not merge the public housing waiting list with the waiting list for any other program the HACM operates.

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4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The HACM 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 HACM 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].

The HACM 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 HACM has particular preferences or other criteria that require a specific category of family, the HACM may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The HACM should publish a notice in local newspapers of general circulation, minority media, and other suitable media outlets that the HACM is reopening the waiting list. Such notice must comply with HUD fair housing requirements. The HACM should specify who may apply, and where and when applications will be received.

The PHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

The PHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

The Monterey County Herald

The Salinas Californian

Local Governmental Agencies

Local Minority Media

The HACM Website

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4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

The HACM should conduct outreach as necessary to ensure that the HACM has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the HACM is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the HACM to serve a specified percentage of extremely low income families, the HACM may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

HACM outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

HACM outreach efforts must be designed to inform qualified families about the availability of 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
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

The HACM will monitor the characteristics of the population being served and the characteristics of the population as a whole in the HACM's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

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4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform the HACM, 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.

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4-II.F. UPDATING THE WAITING LIST

HUD requires the HACM 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 HACM's request for information or updates because of the family member's disability, the HACM 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.

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 HACM 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 HACM has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the HACM not later than 14 calendar days from the date of the HACM letter.

If the family fails to respond within 14 calendar 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 14 calendar 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 HACM 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 HACM error, or to circumstances beyond the family's control.

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Removal from the Waiting List

The HACM 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 HACM 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 HACM has determined the family is not eligible for admission, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding the HACM's decision (see Chapter 14) [24 CFR 960.208(a)].

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PART III: TENANT SELECTION

4-III.A. OVERVIEW

The HACM must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The HACM must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The HACM 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 HACM 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 HACM must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the HACM's selection policies [24 CFR 960.206(e)(2)]. The HACM's policies must be posted any place where the HACM receives applications. The HACM must provide a copy of its tenant selection policies upon request to any applicant or tenant. The HACM may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

When an applicant or resident family requests a copy of the HACM's tenant selection policies, the HACM will provide copies to them and the applicant or tenant family will be charged a reasonable fee for copying.

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4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

Local Preferences [24 CFR 960.206]

HACM 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 the HACM to establish other local preferences, at its discretion. Any local preferences established must be consistent with the HACM plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

The HACM will use the following local preference:

> Elderly families or families headed by an elderly person or families with household members who are mentally, physically or developmentally disabled (30 points)
>
> Working families (30 points)
>
> Families who are actively enrolled in a case management, job training, transitional housing or other self-sufficiency program (20 points)
>
> Victims of Disasters (10 points)
>
> Families who reside in substandard housing or who are involuntarily displaced as a result of code enforcement activities as determined by local code enforcement officials (5 points)
>
> Veterans (10 points)

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 HACM's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the HACM may skip non-ELI families on the waiting list in order to select an ELI family.

If a HACM also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the HACM's HCV program during a HACM fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the PHA'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 HACM fiscal year; (2) ten percent of waiting list admissions to the HACM's housing choice voucher program during the HACM fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of HACM 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.

The HACM 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 HACM 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 HACM must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The HACM 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 HACM 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 HACM 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 HACM may designate projects or portions of a public housing project specifically for elderly or disabled families. The HACM must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the HACM 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 HACM 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 HACM 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)].

The HACM does not have designated elderly or designated disabled housing at this time.

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Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]

The HACM's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the HACM's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The HACM'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 HACM with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a HACM 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 HACM must comply with the following steps:

Step 1. The HACM must determine the average income of all families residing in all the HACM's covered developments. The HACM may use the median income, instead of average income, provided that the HACM includes a written explanation in its annual plan justifying the use of median income.

The HACM will determine the average income of all families in all covered developments on an annual basis.

Step 2. The HACM 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 HACM has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

The HACM 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 HACM 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).

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Step 4. The HACM 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 HACM must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances the HACM's deconcentration policy may include, but is not limited to the following:

- 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 HACM in consultation with the residents and the community through the annual plan process to be responsive to local needs and HACM strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the HACM's deconcentration policy. The HACM must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the HACM'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 HACM will be considered to be in compliance with the deconcentration requirement and no further action is required.

For developments outside the EIR, the HACM will take the following actions to provide for deconcentration of poverty and income mixing:

> Encourage lower income families to move into higher income developments and encourage higher income families to move into lower income developments. No preferences will be given to applicants to encourage income mixing. No skipping of applicants on the waiting list will occur when making housing offers.

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Order of Selection [24 CFR 960.206(e)]

The HACM system of preferences may select families either according to the date and time of application or by a random selection process.

The HACM will select 50% of its families from the waiting list based on date and time of application and 50% based on preferences. 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 HACM.

When selecting applicants from the waiting list, the HACM will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The HACM 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 HACM policy.

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4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the HACM must notify the family.

The HACM will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

> Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
>
> Who is required to attend the interview
>
> Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
>
> 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 HACM 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 HACM from making an eligibility determination; therefore no informal hearing will be offered.

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4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the HACM 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)].

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 HACM.

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 HACM will proceed with the interview. If the HACM 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 HACM will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 14 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible 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).

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An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted by HACM staff in English or Spanish. For limited English proficient (LEP) applicants, the HACM will provide translation services in accordance with the HACM's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HACM in advance of the interview to schedule a new appointment. Applicants who fail to attend two scheduled interviews without HACM approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies in Chapter 3.

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4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The HACM must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including HACM suitability standards, the HACM 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 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)].

The HACM will notify a family in writing of their eligibility and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The HACM 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)].

If the HACM determines that the family is ineligible, the HACM will send written notification of the ineligibility determination within 14 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

If the HACM uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HACM can move to deny the application. See Section 3-III.G for the HACM's policy regarding such circumstances.

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Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

HACM 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 HACM's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

> Part I: Occupancy Standards. This part contains the HACM's standards for determining the appropriate unit size for families of different sizes and types.
>
> Part II: Unit Offers. This part contains the HACM'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 HACM 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 HACM 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 approved.

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5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the HACM 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. HACM 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 HACM does determine the size of unit the family qualifies for under the occupancy standards, the HACM does not determine who shares a bedroom/sleeping room.

The HACM's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

The HACM will use the same occupancy standards for each of its developments.

The HACM's occupancy standards are as follows:

> The HACM will assign one bedroom for each two persons within the household, except in the following circumstances:
>
> > Persons of the opposite sex (other than spouses, and children under age 6) 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 one bedroom.
> >
> > Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
> >
> > Space may be provided for a child who is away at school but who lives with the family during school recesses.
> >
> > Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.
> >
> > The living room will not be used as a bedroom except at the request of the family or for purposes of reasonable accommodation.

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The HACM 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
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10

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5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

The HACM will consider granting exceptions to the occupancy standards at the family's request if the HACM 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 HACM will consider the size and configuration of the unit. In no case will the HACM 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, unless they have a subsequent change in family size or composition.

To prevent vacancies, the HACM 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.

All members of the family residing in the unit must be approved by the HACM prior to occupancy. The HACM will not assign a larger bedroom size due to additions of family members other than by birth, adoption, marriage or court-awarded custody in which case the HACM must be notified by the family within 10 days of the addition.

Processing of Exceptions

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 HACM will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the HACM 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 HACM will notify the family of its decision within 14 calendar days of receiving the family's request.

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PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The HACM 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 HACM must offer the dwelling unit to an applicant in the appropriate sequence. The HACM will offer the unit until it is accepted. This section describes the HACM'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 HACM's policies for offering units with accessibility features.

The HACM 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

For those public housing developments that share a common waiting list, the HACM has adopted a "two offer plan" for offering units to applicants. The developments in this category are as follows:

AMP CA 33-101	Laguna Haciendas
AMP CA 33-107	Oceanview Apartments
AMP CA 33-108	Scattered Sites
AMP CA 33-114	Northridge Plaza Apartments
AMP CA 33-119	El-Gin Village Apartments
AMP CA 33-120	Scattered Sites

Under this plan, the HACM will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. The number of unit offers will be based on the distribution of vacancies. If a suitable unit is available in:

Three (3) or more locations: The applicant will be offered a unit in the location with the highest number of vacancies. If the offer is rejected, the applicant will be offered a suitable unit in the location with the second highest number of vacancies. The offers will be made in sequence and the applicant must refuse an offer before another is made.

Two (2) locations: The applicant will be offered a suitable unit in the location with the higher number of vacancies. If the offer is rejected, a final offer will be made at the other location. The offers will be made in sequence and the applicant must refuse the first offer before a second offer is made.

One (1) location: The applicant will be offered a suitable unit in that location. If the offer is rejected, the applicant will be offered the next suitable unit that becomes available, whether it is at the same location as the first offer or at another location. The second unit offer will be the final offer, unless there is good cause for refusing the offer.

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If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

For those public housing developments that have site-based waiting lists, the first qualified applicant in sequence on the waiting list will receive one offer of a unit of appropriate size. The developments that are covered under the "one offer plan" are as follows:

AMP CA 33-102	Gabilan Vista
AMP CA 33-103	Casa Santa Lucia
AMP CA 33-105	Casa de Oro
AMP CA 33-111	Monterey Public Housing
AMP CA 33-112	Los Ositos

Rejection of the offer under this plan will result in removal from the waiting list unless a determination of "good cause" refusal is reached by the HACM..

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5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

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)].

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:

> Inaccessibility of the head, spouse, or co-head to their source of employment, education, or job training, children's day care, or 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 the PHA'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 60-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 HACM will require documentation of good cause for unit refusals.

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Unit Refusal Without Good Cause

When an applicant rejects the final unit offer without good cause, the HACM 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 HACM opens the waiting list.

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5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

HACM 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 HACM must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the HACM'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 HACM may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

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.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the HACM will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the HACM 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.

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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 HACM will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and HACM policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and HACM policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the HACM to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and HACM policies for calculating adjusted income are found in Part II.

Part III: Calculating 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.

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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.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

Generally an individual who is or is expected to be absent from the assisted unit for 120 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 120 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HACM indicating that the student has established a separate household or the family declares that the student has established a separate household.

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Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

If a child has been placed in foster care, the HACM will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. In the case of tenants, if the time period of the absence is to be more than 12 months, the family may be required to move to a smaller unit.

Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

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 HACM will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent unless the absence is longer than 120 consecutive days. In this case, the family member will be considered permanently absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Children

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 HACM will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

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Caretakers for a Child

If neither a parent nor a designated guardian remains in a household receiving assistance, the HACM 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 14 days. After the 14 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACM will extend the caretaker's status as an eligible visitor.

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.

At no time may the caretaker be considered the leaseholder, until a proper background check and screening process has been completed. HACM reserves the right to refuse to accept a caretaker as the new head of household based upon the results of the background investigation

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6-I.C. ANTICIPATING ANNUAL INCOME

The HACM is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The HACM generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the HACM to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The HACM believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

When the HACM cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HACM will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HACM to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the HACM verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the HACM would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the HACM will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the HACM's policy on reexaminations does not require interim reexaminations for other types of changes.

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Up-Front Income Verification (UIV) and Income Projection [HUD 2008 EIV Webcasts]

HUD strongly recommends the use of up-front income verification (UIV) techniques. 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" [Verification Guidance ("VG"), p. 7]. One such source is HUD's Enterprise Income Verification (EIV) system, which maintains data on three types of income: wages, unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits.

HUD allows HACM to use UIV data as third-party verification of an income source when a resident does not dispute the source. UIV data, however, is generally several months old. Therefore, except in the case of SS and SSI benefits, which are not subject to frequent or dramatic changes, HUD expects the HACM to base its income projection on documentation of current circumstances provided by the resident (such as consecutive pay stubs dated within the last 60 days) or by the income source (if the HACM determines that additional verification is necessary).

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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.

For persons who regularly receive bonuses or commissions, the HACM will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the HACM will use the prior year amounts. In either case the family may provide, and the HACM will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HACM will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] <u>except</u> for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income <u>Not</u> Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income.

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings [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.)

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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)
- 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 HACM, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the HACM's governing board. No resident may receive more than one such stipend during the same period of time.

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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)].

The HACM defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period 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 HACM defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the HACM will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the HACM's interim reporting requirements (see chapter on reexaminations).

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HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance. The earned income disallowance is discussed in section 6-I.E below.

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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.

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Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

The HACM defines *prior income,* or *prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or 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.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the HACM will 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).

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Individual Savings Accounts [24 CFR 960.255(d)]

The HACM chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

The following rules pertaining to ISAs do not apply to this public housing program:

A qualified family paying income-based rent may choose an ISA instead of being given the EID. The HACM must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and the HACM will deposit the difference between the higher rent and the EID rent in the savings account.

Amounts deposited to ISAs may only be withdrawn for the following reasons:

- Because the family is purchasing a home
- To pay education costs of family members
- Because the family is moving out of public or assisted housing
- To pay any other expenses the HACM authorizes to promote economic self-sufficiency

The HACM is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. The HACM may not charge the family a fee for maintaining the account.

At least once each year the HACM must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.

When applicable, the HACM will provide the family with a statement of the balance in their account, including any interest earned, annually and upon request when the family makes withdrawals from the account.

If the family moves out of public housing, the HACM must return the balance in the family's ISA, less any amounts the family owes the HACM.

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6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

To determine business expenses that may be deducted from gross income, the HACM will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the HACM to deduct from gross income expenses for business expansion.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

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Capital Indebtedness

HUD regulations do not permit the HACM to deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HACM will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the HACM to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000 to help a business get started, the HACM will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

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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 HACM include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the HACM must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and HACM policies related to each type of asset.

General Policies

Income from Assets

The HACM generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the HACM believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the HACM can take into consideration past rental income along with the prospects of obtaining a new tenant.

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 HACM to show why the asset income determination does not represent the family's anticipated asset income.

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Valuing Assets

The calculation of asset income sometimes requires the HACM to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 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 HACM will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the HACM will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the HACM to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

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Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HACM will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the HACM will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HACM will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the HACM to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The HACM may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

The HACM will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

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Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The HACM may verify the value of the assets disposed of if other information available to the HACM does not appear to agree with the information reported by the family.

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Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

In determining the value of a checking account, the HACM will use the average monthly balance for the last six months.

In determining the value of a savings account, the HACM will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the HACM will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the HACM will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the HACM will calculate asset income based on the earnings for the most recent reporting period.

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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)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the HACM determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

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Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the HACM must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

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Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

In determining the value of personal property held as an investment, the HACM will use the family's estimate of the value. The HACM 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)].

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.

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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)].

When a delayed-start payment is received and reported during the period in which the HACM is processing an annual reexamination, the HACM will adjust the 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 HACM.

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

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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)]

  The HACM will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

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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.)

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6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The HACM must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. 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 HACM must include in annual income "imputed" welfare income. The HACM must request that the welfare agency inform the HACM 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 PHA'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)].

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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 a tenant family.

Alimony and Child Support

The HACM must count alimony or child support amounts awarded as part of a divorce or separation agreement.

The HACM will count court-awarded amounts for alimony and child support unless the HACM verifies that (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 HACM 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)].

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 HACM. For contributions that may vary from month to month (e.g., utility payments), the HACM will include an average amount based upon past history.

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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].
- 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)]
- 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).)

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(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 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 HACM 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 (HACM) 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

Generally, HACM will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), the HACM will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the HACM will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The HACM may require the family to provide documentation of payments made in the preceding year.

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6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

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6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, noncosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but 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

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACM will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the HACM will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the HACM determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [PH Occ GB, p. 124].

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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

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the HACM will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

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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.

The HACM determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the HACM will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the HACM will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACM will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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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

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the HACM will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the 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 HACM.

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Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

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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 HACM must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the HACM 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.

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Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. The HACM 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

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the HACM will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the HACM will use the schedule of child care costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

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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 HACM 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.

The PHA has opted not to use permissive deductions.

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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 HACM.

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 HACM

The PHA 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]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.

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Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

HACM has 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 HACM, 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 HACM's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to HACM 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.

The HACM 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 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].

The HACM chooses not to use ceiling rents.

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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 HACM to pay the reimbursement to the family or directly to the utility provider.

The HACM will make utility reimbursements to the family.

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6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the HACM establishes a minimum rent greater than zero, the HACM must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the HACM determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

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(4) A death has occurred in the family.

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the HACM.

The HACM has not established any additional hardship criteria.

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Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the HACM must suspend the minimum rent requirement beginning the first of the month following the family's request.

The HACM then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

HACM defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The HACM may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the HACM has established a minimum rent of $50.			
TTP – No Hardship		**TTP – With Hardship**	
$0	30% of monthly adjusted income	$0	30% of monthly adjusted income
$15	10% of monthly gross income	$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
$50	Minimum rent	$50	Minimum rent
Minimum rent applies. TTP = $50		Hardship exemption granted. TTP = $15	

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The HACM will make the determination of hardship within 30 calendar days.

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No Financial Hardship

If the HACM determines there is no financial hardship, the HACM will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the HACM's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

The HACM will require the family to repay the suspended amount within 30 calendar days of the HACM's notice that a hardship exemption has not been granted.

Temporary Hardship

If the HACM determines that a qualifying financial hardship is temporary, the HACM must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the HACM the amounts suspended. HUD requires the HACM to offer a reasonable repayment agreement, on terms and conditions established by the HACM. The HACM also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the HACM's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

The HACM will enter into a repayment agreement in accordance with the HACM's repayment agreement policy (see Chapter 16).

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Long-Term Hardship

If the HACM determines that the financial hardship is long-term, the HACM must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

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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 HACM 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, HACM 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.

Utility Allowance Revisions [24 CFR 965.507]

The HACM must review its schedule of utility allowances each year. Between annual reviews, the HACM 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 HACM's utility allowance schedule [24 CFR 960.253(c)(3)].

Unless the HACM 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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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 HACM must prorate the assistance provided to a mixed family. The HACM 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 HACM 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.

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.

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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.

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 HACM 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 HACM 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 HACM must document that flat rents were offered to families under the methods used to determine flat rents for the HACM.

The annual HACM offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The HACM 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 HACM must provide sufficient information for families to make an informed choice. This information must include the HACM'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 HACM 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.

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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 HACM determines that a financial hardship exists, the HACM must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by the HACM that a financial hardship exists, the HACM 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
- Such other situations determined by the HACM to be appropriate

The HACM 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

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].

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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.

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[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 PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

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(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain 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);

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n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

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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, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

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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 PHA 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 PHA 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 PHA 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 PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA 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 PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA

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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 PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

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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 PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

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Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

The HACM must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. The HACM must not pass on the cost of verification to the family.

The HACM will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance ("VG") and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACM policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the HACM.

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 HACM or HUD determines is necessary to the administration of the program and must consent to HACM 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 PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the HACM will deny admission to applicants and terminate the lease of tenants. The tenant family may request a hearing in accordance with the HACM's grievance procedures.

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7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [VG, p. 11-14]

HUD authorizes the HACM to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the HACM to use the most reliable form of verification that is available and to document the reasons when the HACM uses a lesser form of verification.

In order of priority, the forms of verification that the HACM will use are:

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

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the HACM. The documents must not be damaged, altered or in any way illegible.

The HACM will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the HACM would accept the most recent report.

Print-outs from web pages are considered original documents.

The HACM staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the HACM and must be signed in the presence of a HACM representative or HACM notary public.

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File Documentation

The HACM must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the HACM has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

The HACM 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 HACM is unable to obtain third party verification, the HACM 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]

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7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the HACM'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 HACM.

The HACM will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

The Work Number

TANF

State of California Employment Development Department Records

Social Security Administration Records

There may be legitimate differences between the information provided by the family and UIV-generated information. The HACM may not take adverse action against a family based solely on UIV data unless the family does not dispute the data. The HACM must independently verify any UIV information that the family disputes, and, before taking any adverse action, it must give the family the opportunity to contest the action through the HACM's informal review/hearing processes. (For more on UIV income projection, see section 6-I.C.)

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, social security (SS) and supplemental security income (SSI) benefits for resident families. HUD requires the HACM to use the EIV system. The following policies apply to use of HUD's EIV system.

The EIV system contains two main components: income reports and income discrepancy reports.

Income Reports

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

The HACM will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. When the family does not dispute the UIV data, income reports may be used to meet the regulatory requirement for third-party verification.

Income reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/ SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

When the HACM determines through income reports and independent 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."

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Income Discrepancy Reports (IDRs)

The income discrepancy report (IDR) is a tool for identifying families who may have concealed or under-reported income. Data in the IDR represents income for past reporting periods and may be between 6 and 30 months old at the time the report is generated.

Families that have not concealed or under-reported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

The HACM will generate and review IDRs at least semiannually. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, the HACM will begin with the largest discrepancies.

When the HACM determines that a resident appearing on the IDR 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 IDR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the HACM will request independent third-party written verification of the income in question.

When the HACM determines through IDR review and independent 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 Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (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.

The HACM will identify residents whose identity verification has failed as part of the annual reexamination process.

The HACM will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the HACM determines that discrepancies exist as a result of HACM errors such as spelling errors or incorrect birth dates, it will correct the errors 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 HACM to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

The HACM will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The HACM may mail, fax, e-mail, or hand-deliver third-party written verification requests and will accept third-party responses using any of these methods. The HACM will send a written request for verification to each required source within 7 calendar days of securing a family's authorization for the release of the information and give the source 14 calendar days to respond in writing. If a response has not been received by the 15th calendar day, the HACM will request third-party oral verification.

The HACM will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, HACM staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds orally to the initial written request for verification the HACM will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the HACM will wait no more than 7 calendar days for the information to be provided. If the information is not provided by the 8th calendar day, the HACM will use any information provided orally in combination with reviewing family-provided documents (see below).

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When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the HACM will use the information from documents on a provisional basis. If the HACM later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the HACM will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the HACM's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

The HACM 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 HACM 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].

The HACM will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $1000 annually <u>and</u> the family has original documents that support the declared amount.

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Certain Income, Asset and Expense Sources

The HACM will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the HACM will rely upon review of documents when the HACM determines that a third party's privacy rules prohibit the source from disclosing information.

The HACM 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 HACM 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 HACM 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

If the HACM has determined that third-party verification is not available or not required, the HACM will use documents provided by the family as verification.

The HACM may also review documents when necessary to help clarify information provided by third parties. In such cases the HACM will document in the file how the HACM arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HACM.

The HACM may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HACM and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HACM representative or HACM notary public.

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PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

The HACM will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicle identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
U.S. passport	School records
Employer identification card	

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HACM's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HACM and be signed in the presence of a HACM representative or HACM notary public.

Legal identity will be verified on an as needed basis.

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7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

The HACM will also accept the following documents as evidence if the SSN is provided on the document:

Driver's license

Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

Payroll stubs

Benefit award letters from government agencies; retirement benefit letters; life insurance policies

Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, the HACM will require a self-certification stating that documentation of the SSN cannot be provided at this time. The HACM will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

The HACM will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the HACM will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

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7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACM will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

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7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification. If the HACM has reasonable doubts about a marital relationship, the HACM will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

Certification by the head of household is normally sufficient verification. If the HACM has reasonable doubts about a separation or divorce, the HACM will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

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Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

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7-II.E. VERIFICATION OF STUDENT STATUS

The HACM requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further his or her education.

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7-II.F. DOCUMENTATION OF DISABILITY

The HACM must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HACM is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HACM may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACM receives a verification document that provides such information, the HACM will not place this information in the tenant file. Under no circumstances will the HACM request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The HACM may make the following inquiries, provided it makes them 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
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive payments from the SSA, the HACM will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system). If documentation is not available through HUD's EIV system, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the HACM will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to the HACM.

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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, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments 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. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and HACM verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible 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 HACM may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HACM receives information indicating that an individual's declaration may not be accurate.

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Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HACM must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The HACM will follow all USCIS protocols for verification of eligible immigration status.

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7-II.H. VERIFICATION OF PREFERENCE STATUS

The HACM must verify any preferences claimed by an applicant.

The following section contains information regarding acceptable forms of verification for the specific preferences recognized for the public housing waiting list.

Frail Elderly: This preference is available to those families whose head or spouse is over 62 years of age and needs assistance with daily living activities.

An example of an acceptable form of verification for this preference would be a letter from a doctor or other social services professional stating the need for assistance with daily living activities.

Families with household members who are mentally, physically or developmentally disabled: This preference is available to those families that have at least one member who is mentally, physically or developmentally disabled. If the family is receiving payments from Social Security or SSI for the disabled member, then the preference will be awarded to the family based on their eligibility for benefits.

An example of an acceptable form of verification for this preference is a letter from a medical or social services professional verifying that the family member is mentally, physically, or developmentally disabled.

Working families: This preference is available to those families with at least one member who is employed.

An example of an acceptable form of verification is a letter from the employer documenting that the member is employed or copies of recent check stubs.

Families who are actively enrolled in a case management, job training, transitional housing or other self-sufficiency program: This preference is available to families who are enrolled in self-sufficiency programs.

An example of an acceptable form of verification for this preference is a letter from the agency assisting with the case management, job training, transitional housing or self-sufficiency program.

Victims of Disasters: This preference is available to those families that are victims of disasters such as floods, fire, earthquakes, etc.

An example of an acceptable form of verification for this preference is a letter verifying the disaster from FEMA, the American Red Cross, or other disaster relief agency.

Families who reside in substandard housing or who are involuntarily displaced as a result of code enforcement activities as determined by local code enforcement officials: This preference is available to those families who have been displaced by actions of a government agency while enforcing local health and safety codes.

An example of an acceptable form of verification is a letter from a government agency official verifying the condition.

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Veterans: This preference is available to those families who have current members of the U.S. Armed Forces, veterans or surviving spouses of veterans.

An example of an acceptable for of verification for this preference is a U.S. government document stating that the member is on active duty or a copy of the DD214 certifying an honorable discharge from the military service.

Elderly families or families headed by an elderly person: This preference is available to families that are headed by a person who is over 62 years of age.

An example of an acceptable form of verification is a birth or baptismal certificate.

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PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HACM policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

> An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
>
> All schedules completed for filing federal and local taxes in the preceding year.
>
> If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The HACM will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination, the HCM may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the HACM will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the HACM will require the family to provide documentation of income and expenses for this period and use that information to project income.

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7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HACM will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family has received the original benefit verification letter, it will be required to provide the letter to the HACM.

To verify the SS/SSI benefits of residents, the HACM will obtain information about social security/SSI benefits through HUD's EIV system. If benefit information is not available in the EIV system, the HACM will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HACM will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family has received the benefit verification letter, it will be required to provide the letter to the HACM.

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7-III.D. ALIMONY OR CHILD SUPPORT

The way the HACM will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order.

If payments are made through a state or local entity, the HACM will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

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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. The HACM needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The HACM will verify the value of assets disposed of only if:

The HACM does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HACM verified this amount. Now the person reports that she has given this $10,000 to her son. The HACM has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HACM will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HACM will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

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7-III.G. RETIREMENT ACCOUNTS

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the HACM will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the HACM will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the HACM will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

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7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HACM must obtain verification for income exclusions only if, without verification, the HACM would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HACM will confirm that HACM records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

The HACM will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, the HACM will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

The HACM 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. In addition, a zero income verification and questionnaire form will need to be completed every 30 days by the participant family.

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PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HACM verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The HACM will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or 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 HACM will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

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7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

The HACM will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

> Third-party verification form signed by the provider, when possible
>
> If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the HACM will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACM will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
>
> If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the HACM must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

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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 HACM will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the HACM's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

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7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

The HACM will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the HACM must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

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Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HACM will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HACM must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The HACM will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

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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 HACM must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of 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 HACM will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

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 HACM must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

The HACM will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HACM will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HACM will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the HACM any reports provided to the other agency.

In the event third-party verification is not available, the HACM will provide the family with a form on which the family member must record job search efforts. The HACM will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HACM will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The HACM will seek verification from the employer of the work schedule of the person who is permitted to work by the 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.

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Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

The HACM will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HACM 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 HACM will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with the HACM's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HACM will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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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 the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

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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 HACM and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require HACM to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the HACM may require additional inspections in accordance with HACM policy.

This chapter is divided into two parts as follows:

> Part I: Leasing. This part describes pre-leasing activities and the HACM's policies pertaining to lease execution, modification, and payments under the lease.
>
> Part II: Inspections. This part describes the HACM'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 HACM 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 HACM's policies governing leasing issues.

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8-I.B. LEASE ORIENTATION

After unit acceptance but prior to occupancy, a HACM representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

When families attend the lease orientation, they will be provided with:

A copy of the lease

A copy of the HACM's grievance procedure

A copy of the Resident Handbook (house rules)

A copy of the HACM 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 and Resident Handbook

Unit maintenance and work orders

The HACM's reporting requirements

Terms of occupancy

Orientation to the community

Explanation of occupancy forms

Community service requirements

Family choice of rent

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8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the HACM, 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 HACM unit to another, with the change of head of household or addition/deletion of adult family members.

The lease must state the composition of the household as approved by the HACM (family members and any HACM-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.

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 HACM 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 HACM assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

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8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the HACM [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The HACM may modify its lease from time to time. However, the HACM must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The HACM 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)].

The family will have 30 days to accept 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].

When the HACM proposes to modify or revise schedules of special charges or rules and regulations, the PHA will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family.

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Other Modifications

The lease will be amended to reflect all changes in family composition.

If, for any reason, any adult member of the household ceases to reside in the unit, a new lease will be executed between the HACM and the family. If the member leaving the household is a minor, the lease will be amended to reflect the new family composition.

If a new household member is approved by the HACM to reside in the unit, the person's name and birth date will be added to the lease and the lease will be amended. The head of household and HACM will be required to sign and date the lease amendment. If the new member of the household is an adult, a new lease will be created and executed by all adult members of the household.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

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8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the HACM, 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 HACM. The HACM 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.

Residents must pay a security deposit to the HACM at the time of admission. The amount of the security deposit will be according to the approved security deposit schedule at the time of move-in, and must be paid in full prior to occupancy. If this is a financial hardship for the family, they will be referred to local agencies for assistance. If the family is not eligible for assistance, they will be permitted to pay the deposit in three equal payments and within 90 days of initial occupancy.

The HACM will hold the security deposit for the period the family occupies the unit. The HACM will not use the security deposit for rent or other charges while the resident is living in the unit.

The HACM will refund to the resident, within the time allowed by State law, the amount of 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, or provide a written estimate of the disposition of the deposit to the tenant. The tenant will be considered moved out of the unit when all keys area returned to HACM and a forwarding address is provided.

The HACM will provide the resident with a written list of any charges against the security deposit, within the time allowed by State law, after the move-out inspection. If the resident disagrees with the amount charged, the HACM will provide a meeting to discuss the charges.

If the resident transfers to another unit within the same development, the HACM 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.

If the tenant transfers to another unit in a different public housing development, they will be required to pay a new deposit for that unit based on the deposit schedule in effect at that time. The deposit from the "old" unit will be refunded to them in accordance with the policy above.

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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 HACM 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 HACM must give written notice stating any change in the amount of tenant rent and when the change is effective.

The tenant rent is due and payable at the HACM-designated location on the first of every month.

If a family's tenant rent changes, the HACM will notify the family of the new amount and the effective date providing them with a copy of the signed lease amendment which will become an attachment to the lease.

HACM will not accept two party checks or checks from persons not named on the lease. Partial payments of the rent are not accepted.

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Late Notice Service Fees and Nonpayment

At the option of the HACM, 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 notice service fees are not due and collectible until two weeks after the PHA 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 HACM grievance procedures. The PHA 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)].

If the family fails to pay their rent by the fifth day of the month, and the HACM has not agreed to accept payment at a later date, a 14 day Notice to Pay Rent or Quit will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a fee of $21.00 will be charged for the cost of the service of the late notice upon the household. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required time frame, the HACM may not take action for nonpayment of the fee until the conclusion of the grievance process.

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 of $25.00 will be charged to the family. The fee will be due and payable 14 days after billing.

HACM will refuse future payments by personal check if the family has had two returned checks.

Three or more late payments of rent in a 12 month period will be grounds for termination of the lease by HACM.

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Excess Utility Charges

If the HACM 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 HACM 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 HACM grievance procedures. The HACM 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)].

When applicable, families will be charged for excess utility usage according to the HACM'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 HACM 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.

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Maintenance and Damage Charges

If the HACM 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 HACM 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 HACM grievance procedures. The HACM 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)].

When applicable, families will be charged for maintenance and/or damages according to the HACM'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) and an administrative charge.

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 HACM 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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8-I.G. OTHER LEASING INFORMATION

Resident Handbook/Occupancy Rules

Each tenant will be briefed on the occupancy rules and the provisions of their lease and will be provided with a Resident Handbook at the time of execution of the lease. The Resident Handbook contains information regarding the rules of occupancy and is incorporated by reference into the lease.

Profit Making Activities

HACM may authorize a tenant to engage in legal, profit making activities in the unit upon written request from the tenant, providing:

Activities are incidental to primary use of the leased unit for residence by members of the family.

The appropriate licenses (such as child care and business licenses) are obtained and current.

The activity will not disturb the peaceful enjoyment of the premises for other tenants or have a negative effect on the development.

All income from business activities are reported.

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PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require the HACM to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the HACM may require additional inspections, in accordance with HACM Policy. This part contains the HACM'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 HACM 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 HACM and the resident, must be provided to the tenant and be kept in the resident file.

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 HACM 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 HACM. The HACM 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.

When applicable, the HACM will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 calendar days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (PHAS), the HACM is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)].

All inspections will include a check of all smoke alarms to ensure proper working order. Residents who remove the batteries, unplug, remove or otherwise disable smoke alarms are subject to tenant charges for repair or replacement and will be issued a lease violation. The minimum charge is $25.00 per smoke detector. Repeated vandalism of smoke alarms will lead to the termination of the resident's lease.

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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

Supervisory quality control inspections will be conducted in accordance with the HACM's maintenance plan.

Special Inspections

HACM 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

Project Inspections

The HACM will conduct project inspections as often as feasible, but no less than monthly, to note items in need of repair, general trends of tenant neglect, and/or specific deficiencies in the appearance or upkeep of units. Safety equipment, such as fire extinguishers, will be inspected regularly, but no less than monthly, to ensure that they are available and ready for use. Playground inspections are conducted regularly to determine playground safety. Building exterior and grounds inspections are conducted at all properties to determine hazardous conditions as well as to assist in annual budget preparations.

If a unit remains vacant after renovation for longer than two weeks, the management staff will conduct regular bi-weekly inspections of the unit to ensure against vandalism and that the unit is ready to be occupied.

Emergency Inspections

Housing management staff, including HACM inspectors, may initiate an emergency inspection report to generate a work order if they believe that an emergency exists in the unit or on a Public Housing site. In addition, the inspector may conduct an emergency inspection without a work order after the inspection has been conducted (see Emergency Entries section in this Chapter). Repairs tare to be completed within 24 hours from the time the work order is issued.

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Other Inspections

Preventive Maintenance Inspections

Building exteriors, grounds, common areas and systems will be inspected according to the HACM's preventive plan.

Management Inspections

The property manager will conduct periodic inspections to determine the condition of the unit and to identify problems or issues in which the HACM can be of service to the family. Special inspections may also be conducted for housekeeping or suspected lease violations.

The HACM inspector or supervisors will periodically conduct windshield and/or walk-through inspections to determine whether there may be lease violations, adverse conditions or local code violations.

Special Inspections

HUD representatives or local government officials may review HACM operations periodically, and as a part of their monitoring, may inspect a sampling of the HACM's inventory.

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8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The HACM 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 HACM entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

The HACM 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 1 week 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 HACM to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

The HACM 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 HACM must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the HACM at least 24 hours prior to the scheduled inspection. The HACM will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The HACM 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.

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.

Family Responsibility to Allow HACM Inspection

It is the resident's responsibility to permit the HACM to inspect the unit as required by HUD regulations and upon reasonable notice. Reasonable notice is considered to be 48 hours written notification.

If the resident refuses to allow the inspection to occur, the resident will be in violation of the lease. The HACM will notify the family of its intended action which may include a lease violation or termination of the lease.

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Pest Control Services

The HACM endeavors to provide decent, safe, and sanitary housing within its various public housing developments. As part of its housing management program, the HACM will treat units that have become infested with pests. When a pest problem is detected by a staff member or reported to the HACM by a resident, the HACM will schedule the unit for treatment by a licensed pest control contractor.

Depending upon the nature of the pest, surrounding units may also be treated in order to prevent further infestation. The unit(s) will be re-inspected within thirty days to determine that the problem has been corrected. If the pests still are present, the unit will be re-treated.

Notification of Resident of Treatment

The resident will be given at least 48 hours notice of the date and time for the treatment of the unit for pests. Along with the notification letter will be, if any, written instructions telling the resident how to prepare the unit for treatment and the amount of time that the resident will need to be away from the unit.

Cost of Treatment

Normally, the cost of treatment will be borne by the HACM. However, if the resident was properly noticed and refused to allow treatment or had not prepared the unit treatment as instructed, the resident will be charged for not being ready and will be issued a lease violation.

If repeat spraying in a unit is necessary because the resident is not maintaining the unit in a clean and sanitary condition, the resident will be charged for each additional spraying. Further, the resident will be issued a lease violation and could be subject to termination of their lease for non-compliance.

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8-II.D. INSPECTION RESULTS

The HACM 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 HACM of the damage, and the HACM must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the HACM must charge the family for the reasonable cost of repairs. The HACM may also take lease enforcement action against the family.

If the HACM cannot make repairs quickly, the HACM must offer the family standard alternative accommodations. If the HACM 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.

When conditions in the unit are hazardous to life, health, or safety, the PHA 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:

- Broken lock that affects the security of the unit
- Broken window that affect units security, is a cutting hazard or occurs within inclement weather
- Major plumbing leaks or flooding that have the capacity to cause damage to the unit
- Natural or LP gas or fuel oil leaks
- Electrical failure to a unit or building
- Utilities not in service
- Plugged toilets where there is only one in the unit
- Plugged main line sewers affecting multiple units
- Failure of a HACM-owned refrigerator
- Inoperable smoke detectors

In addition, units with elderly residents will have the additional standard that an inoperable HACM-owned heater will be considered an emergency if the temperature outside has dropped below 50 degrees Fahrenheit.

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Non-emergency Repairs

The HACM will correct non-life threatening health and safety defects within 25 calendar days of the inspection date. If the HACM is unable to make repairs within that period due to circumstances beyond the HACM's control (e.g. required parts or services are not available, weather conditions, etc.) the HACM will notify the family of an estimated date of completion.

The family must allow the HACM access to the unit to make repairs.

Resident-Caused Damages

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., 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

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 HACM will provide proper notice of a lease violation and will provide the resident with a list of items to be corrected.

A re-inspection will be conducted within 5 business days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13. Receipt of three or more lease violations for unsatisfactory housekeeping within a thirty-six month period will be considered material non-compliance and result in lease termination.

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 HACM is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. HACM 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 HACM must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the HACM to offer all families the choice of paying income-based rent or flat rent at least annually. The HACM'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 HACM'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 HACM's policies for conducting annual updates of family composition for flat rent families.
>
> Part III: Interim Reexaminations. This part includes HUD requirements and HACM 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 HACM 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.

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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 HACM 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 HACM 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)]. 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 HACM 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 HACM is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the HACM. 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 HACM's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The HACM 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)].

Generally, the PHA will schedule annual reexaminations to coincide with the family's anniversary date. The PHA 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 anniversary date will not be changed.

The HACM may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

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Notification of and Participation in the Annual Reexamination Process

The HACM is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HACM.

Families generally are required to participate in an annual reexamination interview, which must be attended by all adult members of the household. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACM to request a reasonable accommodation.

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 PHA at least 24 hours in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview, the PHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without PHA 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)].

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 Personal Declaration 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 14 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be 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

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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 HACM 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.

Each household member age 18 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 HACM must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the HACM's policies governing compliance with the community service requirement.

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9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the HACM must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

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 HACM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACM, but will always allow for the 30-day notice period.
>
> If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any 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 HACM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACM.
>
> If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HACM by the date specified, and this delay prevents the HACM from completing the reexamination as scheduled.

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PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the HACM offer all families the choice of paying income-based rent or flat rent at least annually. The HACM's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the HACM 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 HACM is only required to provide the amount of income-based rent the family might pay in those years that the HACM 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 HACM must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains the HACM'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

For families paying flat rents, the HACM will conduct a full reexamination of family income and composition once every year.

Reexamination Policies

In conducting full reexaminations for families paying flat rents, the HACM 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.

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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 PHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)]. However, HACM elects to complete a full reexamination each year.

The annual update process is similar to the annual reexamination process, except that the PHA 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 PHA 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)].

For families paying flat rents, complete annual recertifications will be conducted in each year.

In scheduling the annual recertification, the PHA 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 redetermination of rent and family composition [24 CFR 966.4(c)(2)].

Generally, the family will be required to attend an interview for an annual recertification. If participation in an in-person interview poses a hardship of a family member's disability, the family should contact the HACM to request a reasonable accommodation.

Notification of the annual recertification interview will be sent by first-class mail and will inform the family of 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 HACM at least 24 hours in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview, the HACM will send a second notification with a new interview appointment time.

If the family fails to attend two scheduled interviews without HACM approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Families will be asked to bring all required information (as described in the notice) to the annual recertification appointment. Any required documents or information that the family is unable to provide at the time of the interview must be provided within 14 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus extensions), 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 assistance may assist the family in the interview process.

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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 HACM 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.

Each household member age 18 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 HACM must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the HACM's policies governing compliance with the community service requirement.

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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 HACM policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the HACM must process interim reexaminations to reflect those changes. HUD regulations also permit the HACM to conduct interim reexaminations of income or family composition at any time.

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 HACM must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the HACM will process both PHA- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The HACM must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the HACM 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.

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 HACM will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members <u>Not</u> Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACM approval. However, the family is required to promptly notify the HACM of the addition [24 CFR 966.4(a)(1)(v)].

The family must inform the PHA of the birth, adoption or court-awarded custody of a child within 10 calendar days.

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New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HACM approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The HACM may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which HACM consent will be given or denied. Under such policies, the factors considered by the HACM may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The HACM's obligation to make reasonable accommodation for handicapped persons.

Families must request HACM approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 days during any 12 month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HACM prior to the individual moving into the unit.

The HACM 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 HACM. Exceptions will be made on a case-by-case basis.

The HACM will not approve the addition of a new family or household member unless the individual meets the HACM's eligibility criteria (see Chapter 3).

If the HACM determines that an individual does not meet the PHA's eligibility criteria as defined in Chapter 3, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The HACM will make its determination within 14 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

If a family member ceases to reside in the unit, the family must inform the HACM within 10 calendar 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 HACM within 10 calendar days.

Remaining Member of Tenant Family – Retention of Unit

To be considered the remaining member of the tenant family, the person must have been previously approved by the HACM to be living in the unit.

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A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

> The court has to have awarded emancipated minor status to the minor, or the minor is legally married; or
>
> The HACM has to have verified that the social services and/or Juvenile Court has arranged for another adult to be brought into the unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a transfer to an appropriate unit size. (See Chapters 5 and 12)

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9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the HACM has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the HACM may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

HACM-initiated Interim Reexaminations

HACM-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the HACM. They are not scheduled because of changes reported by the family.

The PHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the HACM will conduct an interim reexamination at the start, 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 HACM will conduct an interim reexamination every 30 days as long as the family continues to report that they have no income.

  If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HACM will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

  If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HACM will conduct an interim reexamination.

  The HACM may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

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Family-Initiated Interim Reexaminations

The HACM must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 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 the HACM the freedom to determine the circumstances under which families will be required to report changes affecting income.

Families are required to report all changes in income, including new employment, within 10 calendar days of the date the change takes effect.

The PHA will conduct interim reexaminations for families when changes in family income or expenses occur.

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 HACM 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.

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 HACM will 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 HACM will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

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9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify the HACM of changes either orally or in writing. If the family provides oral notice, the HACM may also require the family to submit the changes in writing.

Generally, the family will be required to attend an interview for an interim reexamination. If participation in an in-person interview poses a hardship of a family member's disability, the family should contact the HACM to request a reasonable accommodation.

Based on the type of change reported, the HACM will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from the HACM. This time frame may be extended for good cause with HACM approval. The HACM will accept required documentation by mail, by fax, or in person.

Effective Dates

The HACM must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

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 underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

> The decrease will be effective on the first day of the month following the month in which the change was reported. 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 IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the HACM 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 HACM's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

Unless the HACM is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual or interim reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the HACM 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 HACM redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the HACM's schedule of Utility Allowances for families in the HACM's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the HACM must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the HACM determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the HACM's grievance procedure [24 CFR 966.4(c)(4)].

The family will be notified in writing of the change in their rent by providing them with a copy of the signed lease amendment.

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9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the HACM may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HACM may discover errors made by the HACM. When errors resulting in the overpayment or underpayment of 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 HACM'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 HACM 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 HACM.

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 HACM's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

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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].

HACM 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].

HACM'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
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

HACM has the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

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 HACM approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

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10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority HACM may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

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.

When a resident's care or handling of an assistance animal violates these policies, the HACM will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the HACM determines that no such accommodation can be made, the HACM may withdraw the approval of a particular assistance animal.

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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

HACM may require registration of the pet with the agency [24 CFR 960.707(b)(5)].

Pets must be registered with the HACM before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets must be licensed in accordance with state or local law. Residents must have proof of licensing at the time of registration and annually in conjunction with the resident's annual recertification.

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 will not be approved to reside in a unit until completion of the registration requirements.

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Refusal to Register Pets

The HACM will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

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 HACM 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 provisions of the lease.

If the HACM refuses to register a pet, a written notification will be sent to the pet owner within 14 calendar days of the HACM's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the HACM's grievance procedures.

Pet Agreement

Residents who have been approved to have a pet must enter into a pet agreement with the HACM, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the HACM's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the HACM's pet policy and applicable house rules may result in the withdrawal of HACM approval of the pet or termination of tenancy.

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10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

HACM 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 HACM 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

HACM 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 HACM to define the term [24 CFR 5.306(2)].

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Snakes or other reptiles

Rodents

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

Vicious or intimidating pets

Poisonous animals of any kind

Non-human primates

Animals whose climatological needs cannot be met in the unaltered environment of the dwelling unit

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 that handle them

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Pigeons, doves, mynahs, psittacines and birds of other species that are hosts to organisms that cause psittacosis in humans

Pet Restrictions

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

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.

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10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with HACM 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

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

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.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

HACM 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.

HACM may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The HACM may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The HACM 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.

HACM may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

With the exception of common areas as described in the previous policy, the HACM has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the HACM has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

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Cleanliness

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 HACM.

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

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

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.

Pet Care

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

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 HACM property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

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Responsible Parties

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 HACM and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the HACM.

Pet Rule Violations

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 2 calendar 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

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Notice for Pet Removal

If the pet owner and the HACM 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 HACM, the HACM may serve notice to remove the pet.

The notice will contain:

> A brief statement of the factual basis for the HACM'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

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 HACM after reasonable efforts cannot contact the responsible party, the HACM may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

The HACM 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

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Emergencies

The HACM 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 HACM to place the pet in a shelter facility, the cost will be the 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.

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PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes the HACM's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The HACM may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a HACM on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the HACM may require. The HACM may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is $300.00 per pet. The deposit may be paid in full at the time when the pet enters the property or it can be paid in installments. If the deposit is paid in installments, an initial down payment of $50.00 must be made when the animal is registered and then payments of $25.00 per month until the balance are required until the balance is paid in full.

Refund of Deposit [24 CFR 5.318(d)(1)]

The HACM may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The HACM must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

The HACM will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 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 HACM will provide the resident with a written list of any charges against the pet deposit within 21 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the HACM will provide a meeting to discuss the charges.

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10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

All reasonable expenses incurred by the HACM 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 HACM's ability to impose charges for house pet rule violations. However, charges for violation of HACM pet rules may be treated like charges for other violations of the lease and HACM tenancy rules.

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges 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 HACM may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

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PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the HACM's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

HACM may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

HACM requires a resident to pay a pet deposit and 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 HACM 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

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is $300.00 per pet. The deposit may be paid in full at the time when the pet enters the property or it can be paid in installments. If the deposit is paid in installments, an initial down payment of $50.00 must be made when the animal is registered and then payments of $25.00 per month until the balance are required until the balance is paid in full.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

The HACM will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 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 HACM will provide the resident with a written list of any charges against the pet deposit within 21 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the HACM will provide a meeting to discuss the charges.

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10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

HACM 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)].

The HACM requires pet owners to pay a non-refundable nominal pet fee.

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:

Landscaping costs

Pest control costs

Insurance costs

Clean-up costs

The pet fee of $15.00 will be billed on a monthly basis, and payment will be due 14 calendar days after billing.

Charges for the non-refundable pet fee are not part of rent payable by the resident.

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10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

All reasonable expenses incurred by the HACM 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 HACM's ability to impose charges for house pet rule violations. However, charges for violation of HACM pet rules may be treated like charges for other violations of the lease and HACM tenancy rules.

A separate pet waste removal charge of $10.00 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 HACM to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and HACM 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: PHA Implementation of Community Service. This part provides HACM policy regarding HACM 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). HACM and residents must comply with the community service requirement, effective with HACM fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the HACM Plan must contain a statement of the how the HACM will comply with the community service requirement, including any cooperative agreement that the HACM 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 HACM must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

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11-I.B. REQUIREMENTS

Each adult resident of the HACM, 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).

  An individual may not skip a month and then double up the following month, unless special circumstances warrant it. The HACM 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 HACM in writing within 7 calendar days of the circumstances becoming known. The HACM will review the request and notify the individual, in writing, of its determination within 14 calendar days. The HACM 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

  The HACM will consider 25 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 HACM 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 HACM 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.

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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 HACM 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
- 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).

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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 HACM 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 HACM verification of exempt status. The HACM 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.

The HACM will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, the HACM 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.

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11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The HACM 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.

The review of compliance with the community service requirement will take place at the time of the annual recertification.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

At least 60 days prior to lease renewal, the HACM 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 HACM 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 HACM 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 HACM 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 HACM must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

Approximately 60 days prior to the end of the lease term, the HACM 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 14 calendar days to submit the HACM required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or HACM 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

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 HACM within 14 calendar days.

Within 14 calendar days of a family reporting such a change, or the HACM determining such a change is necessary, the HACM 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 HACM within 14 calendar days. Any claim of exemption will be verified by the HACM in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 14 calendar days of a family reporting such a change, or the HACM determining such a change is necessary, the HACM will provide the family written notice that the family member is no longer subject to the community service requirement, if the HACM 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 HACM must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

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 HACM will provide a completed copy to the family and will keep a copy in the tenant file.

The HACM will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The HACM makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the HACM's determination, s/he can dispute the decision through the HACM's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If qualifying community service activities are administered by an organization other than the HACM, a family member who is required to fulfill a service requirement must provide certification to the HACM, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

If anyone in the family is subject to the community service requirement, the HACM 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 HACM, upon request by the HACM.

If the HACM has reasonable cause to believe that the certification provided by the family is false or fraudulent, the HACM has the right to require third-party verification.

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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 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 HACM 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 HACM. 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 HACM 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 HACM must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that the HACM 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 HACM to cure the noncompliance, or the family provides written assurance satisfactory to the HACM 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 HACM's determination, in accordance with the HACM's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the HACM's nonrenewal of the lease because of the HACM's determination.

The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 14 calendar 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 HACM 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.

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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 14 calendar day timeframe, the HACM 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 HACM must terminate tenancy of the entire family, according to the HACM's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

Notices of continued noncompliance will be sent at least 60 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 14 calendar 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 HACM 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 14 calendar day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

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PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

HACM must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the HACM'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.

HACM Implementation of Community Service

The HACM may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by HACM employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

The HACM will notify its insurance company if residents will be performing community service at the HACM. In addition, the HACM 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 HACM will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

HACM Program Design

The HACM 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)].

The HACM will attempt to provide the broadest choice possible to residents as they choose community service activities.

The HACM'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 HACM will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The HACM will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the PHA Plan.

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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
- 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.

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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 25 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 HACM, 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 HACM 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 HACM. Upon receipt of this information the HACM 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.

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D. Authority Obligation

1. To the greatest extent possible and practicable, the HACM may:
   - 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 HACM 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 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 PHA will verify the exemption status in accordance with its verification policies. The HACM will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the HACM's grievance procedure if they disagree with the HACM's determination.
4. Noncompliance of family member:
   - At least sixty(60) days prior to the end of the 12-month lease term, the HACM 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 PHA finds the family member to be noncompliant, the HACM will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with the HACM, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to the HACM 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 60-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 PHA that the noncompliant family member no longer resides in the unit;
   - The family may use the PHA's grievance procedure to dispute the lease termination.

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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: HACM DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the HACM'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 25 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 PHA Official Date

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Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the HACM's transfer policy, based on HUD regulations, HUD guidance, and HACM policy decisions.

This chapter describes HUD regulations and HACM 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: PHA Required Transfers. This part describes types of transfers that may be required by the HACM, 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.

The HACM 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.

The HACM 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 the HACM.

In the case of a genuine emergency, it may be unlikely that the HACM 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, the HACM 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.

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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, the HACM must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

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; and serious water leaks.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the HACM 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, the HACM 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

The HACM will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

The HACM will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the HACM will collect information from companies in the community that provide these services.

The HACM will reimburse the family for eligible out-of-pocket moving expenses up to the HACM's established moving allowance.

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PART II: PHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the HACM to develop reasonable transfer policies.

The HACM may require that a resident transfer to another unit under some circumstances. For example, the HACM may require a resident to transfer to make an accessible unit available to a disabled family. The HACM may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a HACM may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the HACM 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 PHA REQUIRED TRANSFERS

The types of transfers that may be required by the HACM, 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 the HACM 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, the HACM may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

When a non-accessible unit becomes available, the HACM will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The HACM 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. The cost of the transfer will be borne by the tenant.

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Occupancy Standards Transfers

The HACM 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 HACM policy [24 CFR 960.257(a)(4)]. On some occasions, the HACM 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)].

The HACM 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 Section 5-I.B.
>
> *Over-housed:* the family no longer qualifies for the bedroom size in which they are living based on the HACM's occupancy standards as described in Section 5-I.B.

The HACM 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 the HACM's occupancy standards, when the HACM determines there is a need for the transfer.

The HACM 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 the HACM 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 Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

The cost of the transfer will be borne by the family.

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Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the HACM to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

The HACM 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. The HACM'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.

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12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A HACM 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, the HACM may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

The HACM will bear the reasonable costs of emergency transfers that the HACM requires. Residents will be required to bear the cost of occupancy standards transfers, modernization transfers, and transfers from accessible units into non-accessible units. (See Section 12-II.B.)

The reasonable costs of transfers include the cost of packing, moving, and unloading.

The HACM will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the HACM will collect information from companies in the community that provide these services.

The HACM will reimburse the family for eligible out-of-pocket moving expenses up to the HACM's established moving allowance.

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PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the HACM with discretion to consider transfer requests from tenants. The only requests that the HACM is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the HACM. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the HACM

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

The types of requests for transfers that the HACM 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, transfers to a different unit size as long as the family qualifies for the unit according to the HACM's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the HACM.

The HACM 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 the HACM'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

The HACM will consider the following as regular priority transfer requests:

> When the head of household or spouse is employed or attends school 20 miles or more from the public housing unit, has no reliable source of transportation, and public transportation is not adequate.

Transfers requested by the tenant are considered optional for the tenant.

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12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the HACM may establish other standards for considering a transfer request [PH Occ GB, p. 150].

Except where reasonable accommodation is being requested, the HACM will only consider 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 the HACM'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 unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

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12-III.D. SECURITY DEPOSITS

When a family transfers from one unit to another within the same project, the PHA 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.

When the family transfers to another unit in a different project, the family will be required to pay a new security deposit upon acceptance of a new unit. The amount of the deposit will be according to the current security deposit schedule.

In this case, security deposits from the "old" unit will be refunded minus any damage or cleaning charges applicable to that unit. The tenant will be responsible for charges that exceed the amount of the deposit.

If the HACM determines, based on family documentation, that paying a new security deposit will create a financial hardship for the family, the HACM will enter into a payment agreement with the family allowing the family to pay the deposit in installments. (See Chapter 8-I.E.)

12-III.E. COST OF TRANSFER

The HACM must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2006-13].

The resident will bear all of the costs of transfer s/he requests. However, the HACM will bear the transfer costs when the transfer is done as a reasonable accommodation.

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12-III.F. HANDLING OF REQUESTS

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, the HACM will encourage the resident to make the request in writing. However, the HACM will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The HACM 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.

The HACM will respond within 14 calendar days of the submission of the family's request. If the HACM denies the request for transfer, the family will be informed of its grievance rights.

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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

The HACM 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 HACM-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 or his/her designee, the HACM 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 the HACM to meet the demolition or renovation schedule.

Emergency transfers, high priority tenant-requested transfers, transfers to make accessible units available, and demolition or rehabilitation transfers will take precedence over waiting list admissions.

All other transfers will be processed at a rate of 2 transfers to 10 admissions from the waiting list.

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12-IV.C. TRANSFER OFFER POLICY

Residents will receive one offer of a transfer.

When the transfer is required by the HACM, 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.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

> Inaccessibility of the head of household, spouse, or co-head to their 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 the HACM'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 60-day notice to move.
>
> The unit has lead-based paint and the family includes children under the age of six.

The PHA will require documentation of good cause for unit refusals.

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12-IV.E. DECONCENTRATION

Transfers will not be used to further deconcentration of poverty in public housing properties to which it may apply.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will not be changed to reflect the move in date to the new unit.

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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 HACM 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 HACM can terminate a family's lease, and give HACM authority to determine other reasons.

When determining HACM 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 HACM'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 HACM places upon families who wish to terminate their lease.
>
> Part II: Termination by HACM - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the HACM occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.
>
> Part III: Termination by HACM – Other Authorized Reasons. This part describes the HACM's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes HACM to terminate. For some of these options HUD requires the HACM to establish policies and lease provisions for termination, but termination is not mandatory. For other options the HACM has full discretion whether to consider the options as just cause to terminate as long as the HACM policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the HACM may consider in lieu of termination, and the criteria the HACM 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 HACM policies regarding the timing and content of written notices for lease 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.

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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 HACM central office or sent by pre-paid first-class mail, properly addressed.

If a family desires to move and terminate their tenancy with the HACM, they must give at least 30 calendar days advance written notice to the HACM of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control the HACM, at its discretion, may waive the 30 day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

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PART II: TERMINATION BY PHA – MANDATORY

13-II.A. OVERVIEW

HUD requires the HACM to terminate the lease in certain circumstances. In other circumstances HUD requires the HACM to establish provisions for lease termination, but it is still a HACM 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 HACM has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the HACM to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The HACM 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 HACM 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 HACM, has knowingly permitted another individual 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 HACM 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.

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13-II.E. FAILURE TO ACCEPT THE HACM'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The HACM must terminate the lease if the family fails to accept the HACM's offer of a lease revision to an existing lease, provided the HACM has done the following:

- The revision is on a form adopted by the HACM in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The HACM 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 HACM has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to HACM policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

The HACM must immediately terminate the lease if the HACM 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 HACM 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 PHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring HACM to terminate the lease under the circumstances described in Part II, HUD requires the HACM 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 HACM to terminate for such violations in all cases. The HACM 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 HACM may, as an alternative to termination, require the exclusion of the culpable household member. The HACM must make policy decisions concerning these options.

In addition, HUD authorizes HACM 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 HACM must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the HACM lease. In the development of the terms of the lease, the HACM 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 HACM wide discretion in some areas, a broad range of policies could be acceptable.

The HACM, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The HACM may consider alternatives to termination and must establish policies describing the criteria the HACM will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the HACM must take when terminating a family's lease.

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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 HACM to terminate for such violations in all cases, therefore HACM 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].

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 HACM-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.

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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.

The HACM 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 HACM 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 HACM will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HACM 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 HACM may evict a family when the HACM determines that a 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.

The HACM will terminate the lease when the HACM determines that a household member is illegally using a drug or the HACM 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 any use of illegal drugs during the previous thirty-six months.

The HACM 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 HACM will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HACM may, on a case-by-case basis, choose not to terminate the lease.

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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 HACM management staff) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

The HACM 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 HACM management staff) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a five-block radius of the premises.

The HACM 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 HACM 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 HACM may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

HACM must establish standards that allow termination of tenancy if the HACM determines that a 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.

The HACM will terminate the lease if the HACM 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 any such abuse of alcohol during the previous thirty-six months.

The HACM 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 HACM 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 HACM may, on a case-by-case basis, choose not to terminate the lease.

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Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

HACM must establish standards that allow termination of tenancy if the HACM 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 HACM will terminate the lease if the HACM 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 HACM 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 HACM will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HACM may, on a case-by-case basis, choose not to terminate the lease.

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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 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].

The HACM 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. Three 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 HACM, including the house rules, 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

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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 and to refrain from creating physical hazards in the unit, common areas, grounds or parking lots of the property

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 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

In making its decision to terminate the lease, the PHA 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 PHA may, on a case-by-case basis, choose not to terminate the lease.

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13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes HACM 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 HACM may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the HACM to only those examples. The Violence against Women Reauthorization Act of 2005 explicitly prohibits HACM 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.

The HACM 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 HACM to make determinations with respect to rent, 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 HACM that such a dwelling unit is available

Failure to permit access to the unit by the HACM 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 HACM of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 calendar days of the event.

Failure to abide by the provisions of the HACM pet policy

If the family has breached the terms of a repayment agreement entered into with the HACM

Causing a fire in the unit or on the property due to neglect of any household member or guest

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Allowing household members or guests to display, use or possess any firearms (operable or inoperable) or other offensive weapons as defined by the laws and courts of the State of California anywhere in the unit or on the property

Committing fraud in connection with any Federal housing assistance program and not receive any assistance for occupancy of any other unit assisted under any Federal housing assistance program during the term of the lease

Failure to pay all utility bills for which the household is responsible

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 HACM personnel.

> *Abusive or violent behavior towards HACM personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
>
> *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the HACM 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 HACM may, on a case-by-case basis, choose not to terminate the lease.

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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 HACM 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.

The family must supply any information or certification requested by the HACM to verify that the family is living in the unit, or relating to family absence from the unit, including any HACM-requested information or certification on the purposes of family absences. The family must cooperate with the HACM for this purpose.

The family must promptly notify the HACM when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 14 calendar days. In such a case promptly means within 14 calendar days of the start of the extended absence.

If a family is absent from the public housing unit for more than 120 consecutive days even if rent is paid on time during that period, and the family does not adequately verify that they are living in the unit, the HACM will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, the HACM will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the HACM will secure the unit immediately to prevent vandalism and other criminal activity.

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Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes HACM to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the HACM 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 HACM to evict over-income residents, but rather gives HACM the discretion to do so thereby making units available for applicants who are income-eligible.

The HACM 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 HACM may consider exclusion of the culpable household member. Such an alternative can be used, by HACM policy, for any other reason where such a solution appears viable.

The HACM 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 HACM request.

Repayment of Family Debts

If a family owes amounts to the HACM, as a condition of continued occupancy and at the discretion of the HACM, the HACM will require the family to repay the full amount or to enter into a repayment agreement, within 14 days of receiving notice from the HACM of the amount owed. See Chapter 16 for policies on repayment agreements.

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13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

HACM 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 HACM 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.

The HACM will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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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 HACM 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.

The HACM 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
- 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 HACM's failure to terminate the tenancy
- The effect of the HACM'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

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Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes HACM 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.

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 HACM 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 HACM 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 HACM's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the HACM will determine whether the behavior is related to the disability. If so, upon the family's request, the HACM will determine whether alternative measures are appropriate as a reasonable accommodation. The HACM will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

The HACM's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

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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.

Definitions

For the definitions of *domestic violence*, *dating violence*, *stalking*, and *immediate family member*, see section 3-III.F.

VAWA and Other Laws [Pub.L. 109-162]

VAWA does not supersede any other federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, or stalking.

Moreover, VAWA does not limit the PHA's duty to honor court orders issued to protect a victim or to address the distribution of property when a family breaks up.

Limits on VAWA Protections [Pub.L. 109-162]

While VAWA prohibits a PHA from using domestic violence, dating violence, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that the PHA does not subject the victim to a more demanding standard than other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

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In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the HACM will consider the following, and any other relevant, factors:

> Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
>
> Whether the threat is a physical danger beyond a speculative threat
>
> Whether the threat is likely to happen within a short period of time
>
> Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest the HACM's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Victim Notification [Notice PIH 2006-42]

VAWA requires PHAs to notify tenants of their rights under VAWA and to inform them about the existence of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. (For general VAWA notification policies, see section 16-VII.) Notice PIH 2006-42 identifies two ways that a PHA may fulfill this requirement in the event of a termination or start of an eviction proceeding:

- It may enclose the form with the termination or eviction notice and direct the family to complete, sign, and return the form, if applicable, by a specified date.
- It may include language discussing the protections provided by VAWA in the termination or eviction notice and request that a tenant come to the PHA office and pick up the form if the tenant believes the VAWA protections apply.

Notice PIH 2006-42 points out that mailing the certification form in response to an incident could place the victim at risk, since the abuser may be monitoring the mail. In such cases, the notice recommends that PHAs work with tenants to make other delivery arrangements.

The HACM will follow the lease termination notice policy in section 13-IV.D. If the HACM has reason to suspect that the notice might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. The HACM will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

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Victim Documentation [Notice PIH 2006-42]

VAWA authorizes PHAs responding to incidents of actual or threatened domestic violence, dating violence, or stalking to request in writing that a tenant complete, sign, and submit a HUD-approved certification form (form HUD-50066).

In lieu of a certification form, or in addition to the certification form, a tenant may provide one of the following:

- A federal, state, tribal, territorial, or local police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of such abuse, in which the professional attests under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation

A PHA is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, or stalking in order to receive the protections of VAWA. A PHA may, at its discretion, provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

VAWA specifies that a victim of domestic violence, dating violence, or stalking must provide documentation of abuse within 14 business days after receipt of a written request for such documentation by a PHA. If the victim does not provide the documentation within that time frame, or any extension approved by the PHA, the victim forfeits the protections against termination afforded by VAWA, and the PHA is free to evict or terminate the assistance of the victim in accordance with otherwise applicable law and lease provisions.

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 HACM will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the HACM will accept either of the following forms of documentation:

A police or court record documenting the actual or threatened abuse

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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The HACM reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the HACM's written request or must request an extension within that time frame. The HACM may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any HACM-approved extension, the HACM will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any HACM-approved extension, the HACM will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

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 HACM 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." Specific lease language affirming this authority is not necessary. Further the authority supersedes any local, state, or other federal law to the contrary. However, if the HACM chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance [Pub.L. 109-271]. This means that the HACM must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

The HACM will bifurcate a family's lease and terminate the tenancy of a family member if the HACM determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, the HACM will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the HACM by the victim in accordance with this section. The HACM will also consider the factors in section 13.III.E. Upon such consideration, the HACM may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the HACM does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, the HACM will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the HACM may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

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PHA Confidentiality Requirements [PUB.L. 109-162]

All information provided to the HACM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HACM will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

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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 HACM to conduct criminal records checks on public housing residents for lease enforcement and eviction. HACM policy determines when the HACM will conduct such checks.

The HACM will conduct criminal records checks when it has come to the attention of the HACM, 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.

The HACM may not pass along to the tenant the costs of a criminal records check.

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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 HACM 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 HACM 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 HACM 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.

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the HACM will notify the household in writing of the proposed adverse action and will 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.

The family will be given 14 calendar days from the date of the HACM notice, to dispute the accuracy and relevance of the information. If the family does not contact the HACM to dispute the information within that 14 calendar day period, the HACM 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.

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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 HACM documents directly relevant to the termination or eviction. If the HACM does not make the documents available for examination upon request by the tenant, the HACM may not proceed with the eviction [24 CFR 996.4(m)].

When the HACM 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 HACM'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 HACM 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 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 HACM 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 HACM, or for a drug-related criminal activity on or off the premises.

The HACM will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. (For terminations related to domestic violence, see also the policy under "Victim Notification" in section 13-III.F.) If such attempt fails, the notice will be sent by first-class mail the same day and posted on the door in a conspicuous place. In all cases, service of the notice will follow current state or local law.

All notices of lease termination will include a statement of the protection against termination provided by the Violence against Women Reauthorization Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking. They will also include a copy of form HUD-50066, Certification 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.

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Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The HACM 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 (but not to exceed 30 calendar days)

  If the health or safety of other residents, HACM 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 or requires a longer notice period, such period shall apply

The HACM will give written notice of 14 calendar days for nonpayment of rent.

The HACM will give a reasonable time, not to exceed 30 days written notice, commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other residents or staff.

If there is no imminent threat, 30 days written notice will be given in all other cases.

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.

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 HACM 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.

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.

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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 HACM either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the HACM'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 HACM 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.

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the HACM 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 deadline to vacate given by the court, the HACM will seek the assistance of the court to remove the family from the premises as per state and local law.

The HACM may not proceed with an eviction action if the HACM 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).

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13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the HACM evicts an individual or family for criminal activity, including drug-related criminal activity, the HACM 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.

A written record of every termination and/or eviction will be maintained by the HACM 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)

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Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to HACM 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 HACM'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 HACM 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 PHACM policies necessary to respond to applicant appeals through the informal hearing process.

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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 HACM 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.

Use of Informal Hearing Process

While the HACM must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the HACM could make the informal hearing process available to applicants who wish to dispute other HACM actions that adversely affect them.

The HACM will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The HACM 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 HACM 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.

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Scheduling an Informal Hearing

A request for an informal hearing must be made in writing and delivered to the HACM either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACM's notification of denial of admission.

Except as provided in Section 3-III.F, the HACM will schedule and send written notice of the informal hearing within 14 calendar days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

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 HACM.

The person conducting the informal hearing will make a recommendation to the HACM, but the HACM is responsible for making the final decision as to whether admission should be granted or denied.

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Informal Hearing Decision [PH Occ GB, p. 58]

The HACM will notify the applicant of the HACM's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the HACM 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 HACM 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 HACM 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 HACM will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the HACM will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The HACM will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 14 calendar 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 HACM must consider such accommodations. The HACM 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.

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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.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HACM hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HACM informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 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 HACM either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

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United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the HACM receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HACM must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the HACM with a copy of the written request for appeal and proof of mailing.

The HACM 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 HACM with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the HACM of the decision, the PHA must notify the family of its right to request an informal hearing.

The HACM will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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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 HACM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HACM notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The HACM must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the HACM pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at a cost of $1.00 for the first page and $.25 per page thereafter. The family must request discovery of HACM documents no later than
12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the HACM, and to confront and cross-examine all witnesses on whose testimony or information the HACM relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the HACM, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the HACM 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 HACM may, but is not required to provide a transcript of the hearing.

The HACM will not provide a transcript of an audio taped informal hearing.

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Hearing Decision

The HACM must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 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 HACM must retain for a minimum of 5 years the following documents that may have been submitted to the HACM by the family, or provided to the HACM as part of the USCIS appeal or the HACM informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

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 resident family may request that the HACM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HACM notice of termination, or within 30 days of receipt of the USCIS appeal decision.

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.

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PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

HACM must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any HACM action or failure to act involving the lease or HACM policies which adversely affect their rights, duties, welfare, or status.

The HACM grievance procedure must be included in, or incorporated by reference in, the lease.

The HACM grievance procedure will be incorporated by reference in the tenant lease.

The HACM must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the HACM grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the HACM before adoption of any grievance procedure changes by the HACM.

Residents and resident organizations will have 30 calendar days from the date they are notified by the HACM of any proposed changes in the HACM grievance procedure, to submit written comments to the HACM.

The HACM must furnish a copy of the grievance procedure to each tenant and to resident organizations.

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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 HACM action or failure to act in accordance with the individual tenant's lease or HACM regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the HACM or at the project management office
- **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 HACM 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 HACM 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

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14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of a HACM'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 HACM. It is not applicable to disputes between tenants not involving the HACM. 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 HACM.

If HUD has issued a due process determination, a PHA may exclude from the PHA 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 HACM
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

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 PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

The PHA is located in a due process state. Therefore, the HACM will not offer grievance hearings for lease terminations involving criminal activity that resulted in a felony conviction of a household member or that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the HACM, of for violent or drug-related criminal activity on or off the premises.

See Chapter 13 for related policies on the content of termination notices.

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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 HACM 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.

The HACM will accept requests for an informal settlement of a grievance either orally or in writing, to the HACM office within 10 calendar days of the grievable event. Within 10 calendar days of receipt of the request the HACM 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 HACM 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 HACM'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.

The HACM will prepare a summary of the informal settlement within 10 calendar days; one copy to be given to the tenant and one copy to be retained in the HACM's tenant file.

For PHAs 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 for which the expedited grievance procedure applies.

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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.

The resident must submit a written request for a grievance hearing to the HACM within 10 calendar days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the HACM'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 HACM'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 HACM claims is due, the family must pay an escrow deposit to the HACM. When a family is required to make an escrow deposit, the amount is the amount of rent the HACM 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 HACM 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 HACM 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 HACM's disposition of the grievance in any appropriate judicial proceeding.

The HACM 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 HACM. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate HACM official.

Within 10 calendar 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 HACM.

The HACM may wish to permit the tenant to request to reschedule a hearing for good cause.

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 orally or in writing prior to the hearing date. At its discretion, the PHACM may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.55(g)]

The PHA 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 PHA, 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 PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

The HACM will not offer an expedited grievance procedure since California is a due process state.

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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 HACM, other than the person who made or approved the HACM action under review, or a subordinate of such person.

HACM grievance hearings will be conducted by a single hearing officer and not a panel. The HACM has designated the following to serve as hearing officers:

The Conflict Resolution Center of Monterey County

The HACM must determine the methodology for appointment of the hearing officer and it must be stated in the grievance procedure.

The HACM 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 HACM 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.

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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 HACM 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 HACM does not make the document available for examination upon request by the complainant, the HACM may not rely on such document at the grievance hearing.

The tenant will be allowed to copy any documents related to the hearing at a cost of $1.00 for the first page and $.25 per page thereafter. The family must request discovery of HACM 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.

Hearings may be attended by the following applicable persons:

A HACM representative(s) and any witnesses for the HACM

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by the HACM 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 HACM or project management, and to confront and cross-examine all witnesses upon whose testimony or information the HACM 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.

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Failure to Appear [24 CFR 966.56(d)]

If the complainant or the HACM 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 HACM 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 HACM'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.

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear, the HACM will not reschedule the hearing unless needed as a reasonable accommodation for a person with disabilities.

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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 HACM must sustain the burden of justifying the HACM 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 HACM 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)].

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

> **Oral evidence**: the testimony of witnesses
>
> **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the HACM. Writings include all forms of recorded communication or representation, including letters, 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 HACM fails to comply with the discovery requirements (providing the tenant with the opportunity to examine HACM documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the HACM to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require the HACM, 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)].

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The complainant or the PHA 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)].

If the complainant would like the HACM to record the proceedings by audiotape, the request must be made to the HACM by 12:00 p.m. on the business day prior to the hearing.

The HACM will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]

The HACM 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 HACM's responsibilities pertaining to reasonable accommodation.

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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 HACM. The HACM 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 HACM and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

In rendering a decision, the hearing officer will consider the following matters:

HACM Notice to the Family: The hearing officer will determine if the reasons for the HACM's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with HACM policy.

PHA Evidence to Support the HACM Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HACM's conclusion.

Validity of Grounds for Termination of 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 HACM policies. If the grounds for termination are not specified in the regulations or in compliance with HACM policies, then the decision of the HACM will be overturned.

The hearing officer will issue a written decision to the family and the HACM no later than 10 calendar 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 HACM 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.

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Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HACM's decision.

Order: The hearing report will include a statement of whether the HACM's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HACM to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the HACM to restore the family's status.

Procedures for Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HACM will take effect and another hearing will not be granted.

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Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on the HACM which must take the action, or refrain from taking the action cited in the decision unless the HACM Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern HACM action or failure to act in accordance with or involving the complainant's lease on HACM 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 HACM

When the HACM considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the HACM Board of Commissioners within 10 calendar days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 calendar days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the HACM 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 HACM is committed to ensuring that funds made available to the HACM are spent in accordance with HUD requirements.

This chapter covers HUD and HACM policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

> Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HACM policies related to preventing, detecting, and investigating errors and program abuse.
>
> Part II: Corrective Measures and Penalties. This part describes the corrective measures the HACM must and may take when errors or program abuses are found.

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PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

The HACM anticipates that the vast majority of families and HACM employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the HACM's program is administered effectively and according to the highest ethical and legal standards, the HACM will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HACM will 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 HACM will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The HACM will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a tenant certification form to confirm that all rules and pertinent regulations were explained to them.

The HACM will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

HACM staff will be required to review and explain the contents of all HUD- and HACM-required forms prior to requesting family member signatures.

The HACM will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key HACM forms and form letters that request information from a family member.

The HACM will provide each HACM employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

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15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the HACM will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

The HACM will employ a variety of methods to detect errors and program abuse, including:

> The HACM routinely will use available sources of up-front income verification to compare with family-provided information.
>
> At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
>
> The HACM will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

The HACM will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HACM's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The HACM will encourage staff, residents, and the public to report possible program abuse.

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15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the HACM Will Investigate

The HACM will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HACM to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The HACM will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The HACM may investigate possible instances of error or abuse using all available HACM and public records. If necessary, the HACM will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

The HACM will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the HACM will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the HACM, and (3) what corrective measures or penalties will be assessed.

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Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the HACM will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the HACM will take into consideration (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.

Notice and Appeals

The HACM will inform the relevant party in writing of its findings and remedies within 14 calendar days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the HACM 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).

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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 HACM must promptly correct the tenant rent and any utility reimbursement prospectively.

If the family underreported income, increases in the tenant rent will be implemented retroactive to the date that the rent should have increased and no 30 day notice of rent increase will be provided to the family. In all other cases, 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 HACM or the HACM 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.

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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 HACM to use incorrect information provided by a third party.

Family Reimbursement to HACM

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The HACM may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the HACM will terminate the family's lease in accordance with the policies in Chapter 13.

HACM Reimbursement to Family

The HACM will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

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Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the HACM [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the HACM [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)].

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to the HACM Board of Commissioners, employees, contractors, or other HACM 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 HACM on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., 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 HACM may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the HACM may, at its discretion, impose any of the following remedies.

- The HACM may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to HACM).
- The HACM may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The HACM may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The HACM may refer the family for state or federal criminal prosecution as described in section 15-II.D.

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15-II.C. HACM-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACM staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a HACM staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the HACM personnel policy.

HACM-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 HACM

The family is not required to repay an underpayment of rent if the error or program abuse is caused by HACM staff.

HACM Reimbursement to Family

The HACM 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. The reimbursement will be in the form of a rent credit.

Prohibited Activities

Any of the following will be considered evidence of program abuse by HACM 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 HACM

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of HACM activities, policies, or practices

Misappropriating or misusing 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

When the HACM determines that program abuse by a family or HACM staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the HACM will refer the matter to the appropriate entity for prosecution. When the amount of 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.

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15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

If HACM enters into a repayment agreement with a family to collect rent owed, initiates litigation against the family to recover rent owed, or begins eviction proceedings against a family, HACM may retain 100 percent of program funds that it recovers [Notice PIH 2005-7 (HA)].

If the HACM 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 HACM'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 HACM-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 HACM 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 HACM is scored under PHAS, and how this score affects HACM.

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 HACM will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the HACM'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

HACM must establish allowances for HACM-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)].

HACM must also establish surcharges for excess consumption of HACM-furnished utilities [24 CFR 965.506].

The HACM 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 HACM must establish separate allowances for each utility and for each category of dwelling units the HACM determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of HACM 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 HACM 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 HACM about establishing utility allowances.

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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 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)].

The HACM has not installed air-conditioning.

Utility Allowance Revisions [24 CFR 965.507]

The HACM 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 HACM 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.

Between annual reviews of utility allowances, the HACM will only revise its utility allowances due to a rate change, when required to by the regulation.

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16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for HACM-furnished utilities where check meters have been installed, the HACM 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 HACM's average utility rate. The basis for calculating the surcharges must be described in the HACM's schedule of allowances. Changes in the amount of surcharges based directly on changes in the HACM's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by HACM-furnished utilities where check meters have not been installed, the HACM 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 HACM-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of HACM-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the HACM of the utility consumption estimated to be attributable to reasonable usage of such equipment.

The HACM does have HACM-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

The HACM 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 HACM'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.

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16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the HACM 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.

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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.

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 HACM 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 HACM could promptly lease the public housing unit after preparation for occupancy.

The HACM must use a reasonable method to determine flat rents. In determining flat rents, HACM 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 HACM
- Utilities provided by the HACM

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Review of Flat Rents

The HACM must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

The HACM will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values. The HACM uses the Section 8 Housing Choice Voucher Program Fair Market Rents as the flat rents for public housing.

Posting of Flat Rents

The HACM will publicly post the schedule of flat rents in a conspicuous manner in the applicable HACM or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The HACM must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the HACM 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, PHAs 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 PHA. PHAs may calculate a maximum rent on either a PHA- 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

The HACM will recalculate the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

The HACM will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable HACM or project office.

Documentation of Public Housing Maximum Rents

The HACM will maintain records that document how the HACM determined the 95th percentile of TTP, whether the maximum rent was determined HACM-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

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PART III: FAMILY DEBTS TO THE HACM

16-III.A. OVERVIEW

This part describes the HACM's policies for recovery of monies that have been underpaid by families.

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the HACM holds the family liable to return any underpayments to the HACM.

The HACM will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term *repayment agreement* refers to a formal document signed by a tenant and provided to the HACM 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 HACM, the HACM will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

State income tax set-off program

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16-III.B. REPAYMENT POLICY

Family Debts to the HACM

Any amount due to the HACM by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the HACM will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACM will terminate the family's tenancy in accordance with the policies in Chapter 13. The HACM will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

Prior to the execution of a repayment agreement, the family must pay at least 10 percent of the balance owed to the HACM. For those amounts under $250, a minimum of $25.00 as a down payment will be required.

Payment Thresholds

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.

In no case will the monthly payment be less than $25.00.

Execution of the Agreement

All adult members of the family must sign the repayment agreement.

Due Dates

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.

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Non-Payment

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HACM, the HACM will send the family a delinquency notice giving the family 14 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HACM will terminate 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 HACM will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

The HACM will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

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16-III.C. WRITING OFF DEBTS

Debts will be written off if:

The debtor's whereabouts are unknown and the debt is more than one year old.

A determination is made that the debtor is judgment proof.

The debtor is deceased.

The debtor is confined to an institution indefinitely or for more than one year.

The amount is less than $100 and the debtor cannot be found.

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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.

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.

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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.

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PART V: RECORD KEEPING

16-V.A. OVERVIEW

The HACM must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HACM must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

During the term of each public housing tenancy, and for at least three years thereafter, the HACM will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, the HACM will keep the following records for at least three 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 HACM budget and financial statements for the program

Other records as determined by the HACM 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.

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16-V.C. RECORDS MANAGEMENT

HACM must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACM staff.

HACM staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HACM may release the information collected.

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. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data.*

Prior to utilizing HUD's EIV system, the HACM will adopt and implement EIV security procedures required by HUD.

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Criminal Records

The HACM may only disclose the criminal conviction records which the HACM receives from a law enforcement agency to officers or employees of the HACM, or to authorized representatives of the HACM who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HACM must establish and implement a system of records management that ensures that any criminal record received by the HACM from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACM action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HACM must establish and implement a system of records management that ensures that any sex offender registration information received by the HACM from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACM action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a HACM other than under 24 CFR 5.905.

Medical/Disability Records

HACM is not permitted to inquire about the nature or extent of a person's disability. The HACM may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACM receives a verification document that provides such information, the HACM should not place this information in the tenant file. The HACM should destroy the document.

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PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

The HACM has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The HACM must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The HACM must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

The HACM will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

The HACM 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.

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PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2005 (VAWA) requires PHAs to inform public housing tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants.

This part describes the steps that the HACM will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

16-VII.B. VAWA NOTIFICATION

The HACM will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that the HACM may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of the HACM's obligation to keep confidential any information that it receives from a victim unless (a) the HACM has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

16-VII.C. NOTIFICATION TO APPLICANTS

The HACM will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of HACM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACM will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

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16-VII.D. 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.

The HACM 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 HACM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACM 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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EXHIBIT 16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

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Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. In cases of termination or eviction, the housing authority must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

VAWA does not limit the housing authority's duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact _____ at _____.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

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Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

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Attachment #10

Preventive Maintenance Program

And Procedures

PREVENTIVE MAINTENANCE PROGRAM AND PROCEDURES

Housing Authority of the County of Monterey

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Abbreviations Used

ADHM	**Assistant Director of Housing Management**
DHM	**Director of Housing Management**
DMS	**Data Management System**
HACM	**Housing Authority of the County of Monterey**
HM	**Housing Manager**
IS	**Inventory Specialist**
MC	**Maintenance Coordinator**
MM	**Maintenance Manager**
MW	**Maintenance Worker**
PM	**Preventive Maintenance**
PO	**Purchasing Officer**
RFB	**Request for Bids**
RFP	**Request for Proposals**
RHM	**Regional Housing Manager**
SOW	**Scope of Work**
WO	**Work Order**

Preventive Maintenance Program
Housing Authority of the County of Monterey

Introduction

Preventive Maintenance (PM) work consists of work tasks that are conducted to ensure the continued life of facilities and equipment and minimize unexpected and premature breakdown of equipment or systems. The Housing Authority of the County of Monterey (HACM) Preventive Maintenance Program consists of the following:

- Periodic Facility/Equipment Inspections
- Preventive Maintenance Work Planning
- Preventive Maintenance Work Scheduling
- Periodic Preventive Maintenance Work Completion
- Work Order Control and Documentation
- Program Review, Validation and Revision

Responsibilities

The success of the Preventive Maintenance effort rests primarily with the Maintenance Worker (MW). The Maintenance Worker, along with the Regional Housing Manager (RHM) and the Housing Manager (HM), must ensure that equipment and items in the program are identified, inspections are scheduled and completed, required Preventive Maintenance work tasks are scheduled, performed and documented, contracts are monitored and that the program is updated as new equipment and facilities are added to the HACM inventory. The Regional Housing Manager (RHM) supervises his/her assigned maintenance staff and determines the scheduling of work for each development. The RHM is assisted in his/her duties by the various Housing Managers (HM) and the Purchasing Officer (PO). Overall monitoring of the program is the responsibility of the Director of Housing Management (DHM) and the Assistant Director of Housing Management (ADHM).

Procedures

The Preventive Maintenance program consists of the following phases:

- Inspecting Facilities and Equipment
- Determining Equipment and Items to Include in the Program
- Establishing Preventive Maintenance Tasks for Each Item
- Establishing Required Frequency of Tasks
- Contracting Certain Preventive Maintenance Responsibilities and Monitoring Contractor's Performance

- Using Data Management Systems (DMS) to Manage and Control Preventive Maintenance Program
- Scheduling Preventive Maintenance Work
- Performing Preventive Maintenance Tasks
- Documenting Preventive Maintenance Completion
- Updating Preventive Maintenance Program

Inspections

Facility inspections must be accomplished annually for all HACM units, equipment and developments. These inspections serve multiple purposes including an annual opportunity to evaluate the effectiveness of the Preventive Maintenance program. The RHM is responsible for insuring that the inspections are accomplished and work requirement documented. These inspections will be performed with the appropriate Housing Manager as part of their unit inspections. The RHM and MW will coordinate individual unit inspections with the HM to minimize tenant disruption. The MW will also ensure that all common areas, grounds, maintenance areas, storage areas, etc., and all central equipment are inspected during the annual inspection of the project.

The Unit Inspection form is used to document the results of the inspection. Supplemental sheets will be used to describe work to be performed and subsequently used to modify or expand the Preventive Maintenance program.

During the inspection, the MW and HM consider the condition of each item of equipment on the Preventive Maintenance list and evaluate the overall condition of the Preventive Maintenance effort. Additional equipment and/or new items that should be added to the program are identified and included in the coming year's Preventive Maintenance program. If the inspection indicates that adequate Preventive Maintenance has not occurred, the HM notifies the RHM and together they review the Preventive Maintenance history, including tasks, frequency, procedures, etc., and initiate a work order (WO) for corrective action to repair or replace the equipment. The RHM, in conjunction with the HM and MW, modify the Preventive Maintenance program for that item to ensure adequate maintenance is performed in the future. Similar items of equipment at other projects may warrant similar analysis to determine the need for increased Preventive Maintenance.

Determining Equipment and Items to Include in the Program

The HM, RHM and Maintenance Manager (MM) are responsible for developing and adding/deleting equipment and other items in the Preventive Maintenance program. The Inventory of Items by Project provides a list by project of the items included in the Preventive Maintenance program.

The Maintenance Coordinator (MC) and/or Inventory Specialist (IS) are responsible for entering equipment items into the Data Management System (DMS) and generating work orders and periodic reports from the DMS Work Order System.

Generally, items and equipment should receive Preventive Maintenance and be included in the formal program if:

- The cost of replacement equipment exceeds the annual cost of the Preventive Maintenance effort.

- The impact of unexpected failure of the equipment may adversely affect tenant, employee or public safety or health.
- Failure of the equipment may result in damage to tenant, HACM or public property.
- Failure of the equipment may result in violation of law, codes or other legal requirements.
- Failure to perform Preventive Maintenance may otherwise adversely impact HACM.

Establishing Preventive Maintenance Tasks for Each Item

The MM and RHM are responsible for determining specific Preventive Maintenance tasks to be accomplished for each type of item or piece of equipment. Manufacturers' recommendations should be consulted during this effort, and must be followed if equipment is under warranty. Generally, Preventive Maintenance tasks include items such as the following:

- Visual inspection of the equipment and its components
- Testing
- Adjusting
- Lubricating
- Repairing or replacing failed or damaged components or consumables
- Cleaning

The MM and RHM ensure that each item in the program has a detailed listing of tasks to be accomplished and periodically update the list as needed. It is appropriate to post a copy of the required Preventive Maintenance tasks and frequencies at the job site near the equipment item for reference by the maintenance worker (MW).

Establishing Required Frequency of Tasks

As well as determining which items to include and what tasks should be performed, the MM and RHM must determine the frequency of performing each task. Preventive Maintenance tasks are most effectively performed on a recurring schedule (daily, weekly, monthly, quarterly, semi-annually, or annually). Manufacturer's recommendations, maintenance experience, failure rates, appearance, consumption, weather conditions, climate, and cost and/or effect of failure, in addition to the criteria used to add items to the program are some of the factors to consider in determining frequency of required Preventive Maintenance. Certain items of equipment may require additional tasks at various frequencies, i.e., weekly visual checks, monthly lubrication, and semi-annual adjustments may be required. Care must be taken to ensure that these variations are clearly understood by the MW performing the Preventive Maintenance and that all tasks are performed.

The MM and RHM insure that the frequency of tasks is included in the Preventive Maintenance program.

The attached Preventive Maintenance Task Sheets provide a list of preventive maintenance tasks and their frequencies.

Contracting Certain Preventive Maintenance Responsibilities and Monitoring Contractors' Performance

Certain Preventive Maintenance tasks might be more efficiently performed if done by a specialized contractor rather than by in-house HACM maintenance employees. Contract work should be considered if:

- Required skills or special equipment are not available in-house.
- It is proven to be more economical to contract out the effort.
- It is otherwise in the best interest of HACM to contract out the work.

Some examples of Preventive Maintenance work best performed by contract include elevator maintenance, alarm system maintenance, pest control, fire sprinkler system maintenance, and fire extinguisher maintenance.

The MM and RHM recommend work that they feel should be contracted out to the DHM for review and approval. The MM also prepares the draft scope of work (SOW) containing the equipment schedule, locations of projects with this equipment, tasks to be performed, frequencies, and other descriptive information necessary for the contractor to bid the contract and perform the required level of Preventive Maintenance. The SOW should also contain provisions requiring the contractor to document and report his efforts so that individual project maintenance records can be maintained.

The Purchasing Officer (PO) is responsible for issuing Requests for Proposals/Bids (RFP/RFB) to responsible contractors and for recommending a contractor to perform the work in accordance with the HACM Procurement Policy. It is essential that the MM, RHM, and PO work closely to coordinate the contracting process. The MM is responsible for monitoring the contractor's performance and ensuring that the Preventive Maintenance is properly performed.

Using Data Management Systems to Manage and Control the Preventive Maintenance Program

In order to document and manage the Preventive Maintenance tasks, it is critical that all work items be monitored through the work order system. At the time that a Preventive Maintenance task is scheduled to be completed, the RHM and/or HM notify the MC/IS to create the appropriate work order in the Data Management System. The purpose of the DMS is to create a data base that can produce informational reports including work order issued and completed, number of work orders completed by property for a given time period, the date a task was last completed and when the next one is due, and efficiency

rates and costs. The DMS is used to schedule and analyze the entire Preventive Maintenance program and its effectiveness.

The MC/IS is responsible for entering and updating the information in the system and for generating reports and forwarding them to the MM and RHM for scheduling and analysis.

Scheduling Preventive Maintenance Work

Work scheduling is an essential part of efficient maintenance operations. Work can be accomplished without scheduling; however, this practice generally results in lost time and poor productivity and inefficient use of man hours. Therefore, unscheduled work other than emergency tasks should be avoided. Scheduling is especially important for Preventive Maintenance tasks, since Preventive Maintenance is generally the first area that is neglected when workload increases and demand for maintenance labor hours exceeds those available during the normal work week. Unfortunately, this practice ultimately results in early failure of equipment, deterioration of facilities, unsightly conditions, and places the maintenance staff in a "catch-up" rather than a "keep-up" mode. It is imperative therefore that Preventive Maintenance be given a high priority by all managers and maintenance workers, and that Preventive Maintenance tasks are performed as planned and scheduled.

The HM and RHM prepare a weekly Preventive Maintenance work schedule. This schedule is completed by the close of business on the preceding Thursday, for the following week. A copy of the schedule is forwarded to the DHM and ADHM for informational purposes. The RHM and HM use this schedule in order to plan their employee schedules for the following week.

The schedule is a dynamic tool and is used to make daily work assignments. It must be annotated daily to reflect work accomplished and deviations from scheduled work.

In addition, the HM, MM and RHM direct the MC/IS to create the necessary work orders so that the scheduled tasks can be assigned to the appropriate MW for the coming week. The work orders are forwarded to the HM and RHM to use in preparing the upcoming week's schedule. The HM and RHM use the information in the Data Management System reports and the Preventive Maintenance work orders in order to develop the weekly work schedule and reserve hours for Preventive Maintenance **before** normal work order accomplishment is scheduled.

When the assigned maintenance worker receives their work orders, they need to assemble the required parts in order to accomplish the tasks. Those items of material that are available in the project supply cabinet are to be used. Any items not readily available in the cabinet should be purchased from an approved vendor. Maintenance workers are responsible for their supply cabinets and their contents. As material is depleted and charged to a work order, it is the responsibility of the maintenance worker to restock the

standard items in the cabinet to approved levels. This is accomplished through regular inventory assessment and ordering.

Performing Preventive Maintenance Tasks

Preventive Maintenance tasks, like all other maintenance work, must be accomplished by the maintenance worker in an efficient and economical manner. HACM employees are hired and promoted, if appropriate, based on their experience, capabilities and potential and top quality work is expected of each individual. The Preventive Maintenance program has been carefully planned and estimated and the majority of tasks should be completed within the limit approved. However, circumstances may occur that cause deviations from the planned effort. The RHM should bring this information to the MM who should investigate the required task and initiate corrective action, including modifying the Preventive Maintenance program if appropriate.

Maintenance workers are assigned and scheduled to accomplish Preventive Maintenance work orders just as they are assigned and scheduled to perform non-recurring work orders.

If materials or replacement parts are required to complete the Preventive Maintenance, the maintenance worker draws them from their assigned supply cabinet. If the materials are not available in their standard supplies, the materials are purchased from an approved vendor utilizing the HACM Purchasing Policy.

All work must be performed in a careful, safe and prudent manner in accordance with the HACM Personnel Policy, safety standards, and the Illness and Injury Prevention Program. If any work cannot be safely accomplished, the employee will immediately report the situation to their supervisor for guidance.

Documenting Preventive Maintenance Accomplished

Proper accounting of material and labor used in performance of the Preventive Maintenance program is the foundation of efficient preventive maintenance management. This documentation permits the development of a historical Preventive Maintenance record and is used in determining budgets, staffing levels, future work plans, and in planning Preventive Maintenance tasks in the future.

Upon completion of each Preventive Maintenance work order assigned to him/her, the maintenance worker writes the number of hours used for the task on the work order. At the close of each business day, he/she turns completed work orders in to the RHM and advises the RHM of the hours used and Preventive Maintenance tasks that were not completed as scheduled.

The maintenance worker also indicates on the work order any material used to perform the Preventive Maintenance task. Upon completion of each work order, the maintenance worker signs and dates the form as completed. His/her signature is certification that all

work is completed as noted and that the hours and material used are accurate. The work order forms must be returned to the HM each day.

After reviewing the forms, the HM initials each work order and forwards it to the MC/IS. The HM annotates the weekly work schedule and adjusts it to reflect the hours used for Preventive Maintenance. The HM and RHM revise work assignments as required to complete any scheduled but uncompleted Preventive Maintenance tasks as efficiently as possible.

The MC/IS enters the date completed, the name of the maintenance worker who completed the work order, and other appropriate information into the Data Management System and ensures that the final copy of the work order is properly distributed and filed.

The RHM briefs the DHM and ADHM on the Preventive Maintenance tasks completed and deferred during the previous week. The DHM uses this information to monitor the Preventive Maintenance program and ensures adequate Preventive Maintenance is being accomplished to HACM facilities and equipment.

Updating the Preventive Maintenance Program

In order to ensure that HACM equipment and facilities are being properly maintained, the Preventive Maintenance program must receive a detailed annual review. This is the responsibility of the DHM. He/she annually performs a detailed analysis of Preventive Maintenance work accomplished and deferred, the cost of the Preventive Maintenance program and the benefits derived from this expenditure. On-site inspections are made to obtain a first hand look at the program's effectiveness. He/she ensures that the HACM budget includes funds reserved for Preventive Maintenance labor, material, replacement parts, tools and equipment. The DHM also analyzes the maintenance staffing levels if Preventive Maintenance tasks are not being accomplished and prepare recommendations on program improvements to the Executive Director.

Thirty days prior to the DHM review, the MM and RHM analyze the Preventive Maintenance program and verify that equipment, tasks, frequencies and work effort are adequate for the coming year. He/she ensures that the MC/IS prepares the appropriate reports for the DHM analysis and use. The MM and RHM provide the DHM with a list of proposed revisions to the program and the proposed budgetary requirements for the coming year. They also review that portion of the program accomplished by contract and recommend continuation or modifications.

Following the DHM analysis and report to the Executive Director, approved changes to the Preventive Maintenance program are entered into the Data Management System and plan.

Preventive Maintenance Task Sheet

Air Handling Unit

REQUIRED FREQUENCY:

WEEKLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check and repair electrical and control wiring and connections.
2	Check for leaks in coils and piping. Initiate repairs as required.
3	Check for overall proper operation of equipment.
4	Remove any trash or debris from area.
5	Check door locks and ensure they are secure.

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Perform weekly tasks listed above.
2	Check and change filters if dirty.

ANNUALLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Perform weekly/monthly tasks listed above.
2	Check safety controls/limit/shutoff switches for proper settings and operation.
3	Engage pumps and check for proper operation.
4	Clean grills/coils/air intakes of dust, dirt, etc.
5	Lubricate pump/motor bearings as required.
6	Adjust drive belts and couplings as required.
7	Check alignment, clearances and rotation of shaft and coupling.
8	Clean pump/blower/motor exteriors.
9	Tighten or replace any loose or missing screws, bolts, etc.
10	Clean up equipment room.
11	Ensure floor drains are clean and operating properly.
12	Check door locks and ensure area is secure.

Preventive Maintenance Task Sheet

Central Heating Equipment

REQUIRED FREQUENCY:

WEEKLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check for gas leaks. Initiate repairs as required.
2	Check and repair electrical and control wiring and connections.
3	Check and adjust pilot for proper operation.
4	Check for water leaks in tank and piping. Initiate repairs as required.
5	Check for overall proper operation of equipment.
6	Remove any combustible items within two feet of heater/boiler.
7	Remove any trash or debris from area.
8	Check door locks and ensure area is secure.

ANNUALLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Perform weekly tasks listed above.
2	Check and adjust operation of thermostats.
3	Check safety controls/limit/shutoff switches for proper settings and operation.
4	Clean burner if required.
5	Check draft diverter and clean openings.
6	Clean fire box if required.
7	Check and adjust burner flame for efficient operation.
8	Engage pumps/motor/blowers and check for proper operation.
9	Check condition of flue and chimney.
10	Clean grills/intakes of dust, dirt, etc.
11	Lubricate bearings as required.
12	Adjust drive belts and couplings as required.
13	Check alignment, clearances and rotation of shaft and coupling.
14	Clean pump/blowers/boiler/motor exteriors.
15	Tighten or replace any loose or missing screws, bolts, etc.
16	Clean up equipment room.
17	Check door locks and ensure area is secure.

Preventive Maintenance Task Sheet

Central Water Heaters

REQUIRED FREQUENCY:

WEEKLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check for gas leaks. Initiate repairs as required.
2	Check and repair electrical and control wiring and connections.
3	Check and adjust pilot for proper operation.
4	Check for water leaks in tank and piping. Initiate repairs as required.
5	Check for overall proper operation of equipment.
6	Remove any combustible items within two feet of heater/boiler.
7	Remove any trash or debris from area.
8	Check door locks and ensure they are secure.

ANNUALLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Perform weekly tasks listed above.
2	Check pressure relief valve for free operation.
3	Check safety controls/limit/shutoff switches for proper settings and operation.
4	Clean burner if required.
5	Check draft diverter and clean openings/
6	Clean fire box if required.
7	Check and adjust burner flame for efficient operation.
8	Engage pumps and check for proper operation.
9	Check condition of flue and chimney.
10	Clean grills/air intakes of dust, dirt, etc.
11	Lubricate pumps/motor bearings as required.
12	Adjust drive belts and couplings as required.
13	Check alignment, clearances and rotation of shaft and coupling.
14	Drain and flush tanks.
15	Clean pump/boiler/motor exteriors.
16	Tighten or replace any loose or missing screws, bolts, etc.
17	Clean up equipment room.
18	Check door locks and ensure area is secure.

Preventive Maintenance Task Sheet

Dumpster Enclosure

REQUIRED FREQUENCY:

WEEKLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check dumpster for overflow of trash. Clean as needed.
2	Check enclosure for graffiti. Remove as needed.
3	Check dumpster gate for proper operation and repair as needed.
4	Sanitize enclosure.

Preventive Maintenance Task Sheet

Elevators

REQUIRED FREQUENCY:

NOTE: Elevator maintenance, including Preventive Maintenance, is performed by contract. Monthly checks by HACM maintenance personnel are performed to ensure proper contractor effort. Any problems noted must be reported to the Regional Housing Manager immediately.

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check overall Condition and appearance of elevator cab, doors, call buttons, floor indicators, etc.
2	Ensure cab stops level with building floor at each stop.
3	Ensure door sensors activate doors properly if door opening is obstructed.
4	Activate Emergency Alarm and ensure proper operation.
5	Ride elevator and observe any overall problems (noise, vibration, smoothness of ride, etc.).
6	Report any unusual items or deficiencies to supervisor.

Preventive Maintenance Task Sheet

Emergency Lights

REQUIRED FREQUENCY:

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure lighting unit is in place and securely mounted.
2	Check fixture body and lenses. Repair/replace as required.
3	Engage test switch to ensure light is operational.
4	Replace bulb(s) if required.
5	Disconnect area lighting circuit breaker and ensure all lights operate.
6	Ensure fixtures are focused/adjusted to light as much of area as possible.

Preventive Maintenance Task Sheet

Exhaust Fans

REQUIRED FREQUENCY:

ANNUALLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure fan and motor are securely mounted.
2	Remove grill and inspect fan/motor.
3	Engage fan motor to ensure proper operation (clearances, vibration free, quiet, etc.).
4	Lubricate motor/fan bearings if required.
5	Check exhaust duct for obstructions. Clean as required.
6	Check for free operation of any dampers.
7	Clean fan/motor of dust, grease and dirt buildup.
8	Clean grill.
9	Replace any missing screws or bolts.
10	Replace grill.
11	Perform final check to ensure proper operation.

Preventive Maintenance Task Sheet

Exit Lights

REQUIRED FREQUENCY:

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure fixture is securely mounted.
2	Check fixture body and lenses. Repair/replace as required.
3	Check to ensure light is operational.
4	Replace bulb if required.

Preventive Maintenance Task Sheet

Exterior Lights

REQUIRED FREQUENCY:

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure that fixture is securely mounted. Repair as needed.
2	Check fixture body and lenses. Repair/replace as needed.
3	Check to ensure light is operational. Replace bulb as needed.
4	Check timers and photocells for proper operation.
5	Adjust timers and photocells as needed to maintain maximum efficiency.

Preventive Maintenance Task Sheet

Fire Sprinkler System

REQUIRED FREQUENCY:

MONTHLY

NOTE: Fire Sprinkler System maintenance, including Preventive Maintenance, is performed by contract. Monthly checks by HACM maintenance personnel are performed to ensure proper contractor effort. Any problems noted must be reported to the Regional Housing Manager immediately.

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure there are no leaks in piping or sprinkler heads.
2	Ensure all heads are clear and free of obstructions.
3	Ensure all valves are set in proper setting as required (normally open/normally closed).
4	Check condition of all electrical and control wiring and connections.
5	Inspect any pumps and motors for overall condition.
6	Report any unusual items or deficiencies to supervisor.

Preventive Maintenance Task Sheet

Graffiti

REQUIRED FREQUENCY:

DAILY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check site for graffiti. Graffiti is to be removed within 24 hours of occurrence.
2	Prime and paint as needed.

Preventive Maintenance Task Sheet

Lawn Sprinkler System

REQUIRED FREQUENCY:

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure there are no leaks in piping or sprinkler heads.
2	Ensure all heads are clear and free of obstructions.
3	Ensure all valves are set at proper setting as required (normally open/normally closed).
4	Ensure all shut off valves are accessible.
5	Check and ensure timers are set for proper time of day and "On" and "Off" times are correct.
6	Ensure control gears operate freely and properly. Lubricate if required.
7	Check condition of all electrical and control wiring and connections.
8	Activate system and observe operation.
9	Check and adjust heads to provide proper water coverage.
10	Shut off system to ensure proper shutdown.
11	Inspect any pumps and motors for overall condition and operation.
12	Ensure control panel is locked and secure from tampering.

Preventive Maintenance Task Sheet

Parking Lots

REQUIRED FREQUENCY:

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check parking lot surface for holes, ruts, and oil stains. Repair and clean as needed.
2	Checking parking spaces for proper spacing and check to ensure that car stops are secured. Repair as needed.
3	Check for proper signage and curb markings (handicap, 20 minute loading, fire zone, and tenant parking). Replace as needed.
4	Re-stripe parking lot as needed.

Preventive Maintenance Task Sheet

Resident Neighbor Call System

REQUIRED FREQUENCY:

ANNUALLY and When Performing Work Order in Unit

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Ensure alarm switches and pull cords are clear of obstructions and readily accessible for resident use.
2	Activate alarm switch.
3	Observe operation of hallway light and buzzer.
4	Ensure alarm sounds properly at all remote locations if applicable.
5	Silence alarm.
6	Activate remaining alarm switches, one at a time, and repeat steps 3-5.
7	Replace/repair any defective parts including light bulb.
8	Ensure resident understands purpose and operation of alarm.

Preventive Maintenance Task Sheet

Smoke/Fire Detectors

REQUIRED FREQUENCY:

ANNUALLY and When Performing Work Order in Unit

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check to ensure detectors are present in the unit.
2	Check to ensure detectors have not been covered or tampered with. Notify supervisor if detector has been made inoperable by resident.
3	Test detector for proper operation.
4	Replace battery if applicable.
5	Replace any missing or inoperable detectors immediately.
6	Instruct residents that detectors must be kept operational.

Preventive Maintenance Task Sheet

Sump Pump/Lift Station/ Alarm System

REQUIRED FREQUENCY:

WEEKLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check and repair electrical and control wiring and connections.
2	Check condition and operation of float.
3	Check limit settings.
4	Clean float and linkages of foreign objects.
5	Check operation of alarm system, including switch contacts, horn lights, etc.
6	Engage motor/pump and check for proper operation.
7	Check and repair leaks in piping.
8	Check drains and clean out any debris.
9	Remove any foreign objects, trash, debris, etc. from area.
10	Treat with chemicals/enzymes.
11	Check door locks and ensure area is secure.

MONTHLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Lubricate bearings as required.
2	Adjust drive belts and couplings as required.
3	Check alignment, clearances and rotation of shaft and coupling.
4	Clean pump and motor exterior.
5	Tighten or replace any loose or missing screws, bolts, etc.

Preventive Maintenance Task Sheet

Wall Furnace

REQUIRED FREQUENCY:

ANNUALLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check for gas leaks.
2	Check and repair electrical and control wiring and connections.
3	Check and adjust pilot for proper operation.
4	Check and adjust operation of thermostat.
5	Check safety controls for proper settings and operation.
6	Check and adjust burner flame.
7	Clean burner if required.
8	Check draft diverter and clean openings.
9	Clean fire box.
10	Check condition of flue and chimney.
11	Clean grill of dust, dirt, etc.
12	Remove any objects within twelve inches of furnace.
13	Advise tenant to keep furniture and other objects at least 12" from furnace.

Preventive Maintenance Task Sheet

Water Heater, Gas and Electric

REQUIRED FREQUENCY:

ANNUALLY

TASK #	PREVENTIVE MAINTENANCE TASK REQUIRED
1	Check for water leaks in tank and piping.
2	Check for gas leaks.
3	Check and adjust pilot.
4	Check condition of electrical and control wiring.
5	Check and adjust burner flame.
6	Clean burner if required.
7	Check relief valve operation and condition.
8	Check controls for proper operation. (Temperature regulators, thermostats, automatic fuel shut-off valves, etc.).
9	Check draft diverter and clear openings.
10	Remove any objects/debris within 12" of heater.
11	Check water temperature and adjust thermostat as required.
12	Clean fire box.
13	Check condition of flue pipe.
14	Drain and flush tank.

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Wall Furnaces	Central Heating Equip.	Unit Water Heater	Central Water Heater	Lift Station/ Sump Pump/Alarm	Exhaust Fans	Lawn Irrigation Systems	Timers (P=photocell) (S=Sprinkler)(B=Both)
33-1	Calle Cebu, E. Rossi Street, Haciendas Place								
Laguna Haciendas	Salinas, CA	X	Office Building	X			X	X	B
33-2	Gabilan Court								
Gabilan Vista	Gonzales, CA	X		X			X		
33-3	8th, 9th, 10th, Alta, Belden Streets								
Casa Santa Lucia	Gonzales, CA		X	X			X		
33-5	48 C Street								
Casa de Oro	Gonzales, CA	X	Common Area	X	Common Area		X	X	B
33-6	1030 Rider Avenue								
Rider Manor	Salinas, CA	X			X		X	X	B
33-7	44 Natividad Road								
Oceanview Apts.	Salinas, CA		X	X		X	X	X	B
33-8									
Del Monte Manor	1415 Del Monte Avenue	Elec. Base.			X		X	X	B
Sanborn Estates	1025 N. Sanborn Road	X			X		X		P
Sanborn Plaza	1039 N. Sanborn Road	X			X		X		P
Sanborn Arms	1058 N. Sanborn Road	X			X		X		P
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Wall Furnaces	Central Heating Equip.	Unit Water Heater	Central Water Heater	Lift Station/ Sump Pump/Alarm	Exhaust Fans	Lawn Irrigation Systems	Timers (P=photocell) (S=Sprinkler)(B=Both)
33-10									
No Name	1011 E. Laurel Drive	X		X			X	X	B
No Name	1029 Rider Avenue	X		X			X	X	B
No Name	1111 Alamo Way	X		X			X	X	B
No Name	1112 Alamo Way	X		X			X	X	B
	Salinas, CA						X	X	B
33-11									
No Name	531 Watson Street	X		X			X	X	B
No Name	242 Montecito Avenue	X		X			x	X	B
	Monterey, CA						X	X	B
33-12	1083 Elm Avenue		Commun-ity Room		Common Area		X	X	B
Los Ositos	Greenfield, CA	X		X			X	X	B
33-14	1511, 1513, 1515 Wheeler Dr.							X	B
Northridge Plaza Apts.	Salinas, CA	X		X					
33-17									
Del Monte Townhomes	1259 Del Monte Avenue	X		X	Common Area		X	X	B
No Name	1062 N. Sanborn Road	X		X	Common Area		X		
SFD	514 E. Alvin Drive	X		X			?	X	
SFD	13073 Arthur		X	X			?	X	
SFD	1569 Colusa Place			X			?	X	
	Salinas, CA		X						

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Wall Furnaces	Central Heating Equip.	Unit Water Heater	Central Water Heater	Lift Station/ Sump Pump/Alarm	Exhaust Fans	Lawn Irrigation Systems	Timers (P=photocell) (S=Sprinkler)(B=Both)
33/18									
SFD	737 Mae Avenue #A		X	X			X	X	
SFD	737 Mae Avenue #B	X		X			?	X	
SFD	747 Mae Avenue #A		X	X			?	X	
SFD	747 Mae Avenue #B	X		X			?	X	
No Name	24 N. Wood Street	X		X			?	X	B
No Name	1113 D Street	X		X	Laundry		X		B
No Name	1012 N. Sanborn Road	X		X	Laundry		X	X	B
No Name	775 Elkington Avenue	X		X	Laundry		X	X	B
No Name	780 Elkington Avenue	X		X	Laundry		X	X	B
No Name	312 Williams Road	X		X			X	X	B
No Name	540 Williams Road	X		X			X	X	B
Duplex	1346/1348 Las Cruces Drive		X	X			X	X	
SFD	1073 Sherman Way		X	X			X		
SFD	1744 Cherokee Drive		X	X			X		
SFD	18329 Van Buren		X	X			X		
SFD	18861 Hoover Street		X	X			X		
	Salinas, CA								
33-19									
El-Gin Village	350 Casentini Street								
	Salinas, CA	X		X			X	X	B
200									
SFD	10941 Pieri Court		X	X			X		
SFD	10944 Pieri Court		X	X			X		
	Moss Landing, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Wall Furnaces	Central Heating Equip.	Unit Water Heater	Central Water Heater	Lift Station/ Sump Pump/Alarm	Exhaust Fans	Lawn Irrigation Systems	Timers (P=photocell) (S=Sprinkler)(B=Both)
203 Catalyst Apts.	235 Martella Street Salinas, CA	X					X	X	B
204 Oak Grove Apts.	1100 - 2nd Street Monterey, CA	X					X	X	B
205 Pueblo del Mar	3026-3044 Kwajalein Court 3048-3100 17th Regiment Ct. Marina, CA		X	X			X	X	B
901 Lakeview Towers	58 Natividad Road Salinas, CA	X		X		X	X	X	B
902 Portola Vista	20 Del Monte Avenue Monterey, CA	Elec. Base			X		X	X	B
903 King City Migrant Center	440 Jayne Street King City, CA	X		X			only in new units	X	B
904 Vista del Valle	24487 Grant Street Chualar, CA	X		X			X	X	B
905 Paseo de Las Rosas	Salinas, Seymour, Pajaro, Haight, Speegle Streets Castroville, CA	X		X			X	X	B

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Wall Furnaces	Central Heating Equip.	Unit Water Heater	Central Water Heater	Lift Station/ Sump Pump/Alarm	Exhaust Fans	Lawn Irrigation Systems	Timers (P=photocell) (S=Sprinkler)(B=Both)
906 Tesoros del Campo	La Posada Drive, California Street Salinas, CA		X	X	Laundry Room		X	X	B
931 Casas del Sol	29 Sun Street Salinas, CA	X			X		X	X	B
934 Jardines Del Monte	1253 Del Monte Avenue Salinas, CA		X	X			X	X	B
935 Leo Meyer Senior Plaza	425 Queen Street King City, CA	X	Common Area	X	Common Area		X	X	B
941 Casanova Plaza	800 Casanova Avenue Monterey, CA	X	Common Area		X		X	X	B
942 Parkside Manor	1112, 1114, 1115 Parkside St. Salinas, CA	X	Common Area		X		X	X	B
951 Plaza House	30 E. Market Street Salinas, CA		X		X				P
Central Office	123 Rico Street Salinas, CA		X		X		X	X	B

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Wall Furnaces	Central Heating Equip.	Unit Water Heater	Central Water Heater	Lift Station/ Sump Pump/Alarm	Exhaust Fans	Lawn Irrigation Systems	Timers (P=photocell) (S=Sprinkler)(B=Both)
Development Office	134 E. Rossi Street Salinas, CA		X		X		X	X	B

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Fire Sprinkler System	Fire/Smoke Detectors	Meters (G=Gas, E=Elect., W=Water, A=All)	Air Handling Unit	Resident Neighbor Call System	Emergency Lights	Exit Lights	Fences (Indicate Type)
33-1	Calle Cebu, E. Rossi Street, Haciendas Place								
Laguna Haciendas	Salinas, CA		X	A			Common Area	Common Area	Wrought Iron, Sound Wall, Cyclone
									Cyclone
33-2	Gabilan Court								
Gabilan Vista	Gonzales, CA		X	A					Cyclone
33-3	8th, 9th, 10th, Alta, Belden Streets								
Casa Santa Lucia	Gonzales, CA		X	A					Wood, Cyclone
33-5	48 C Street								
Casa de Oro	Gonzales, CA		X	A		X	Common Area	Common Area	Wood, Cyclone
33-6	1030 Rider Avenue								
Rider Manor	Salinas, CA		X	A					Wood, Cyclone
33-7	44 Natividad Road								
Oceanview Apts.	Salinas, CA		X	A					Wood, Cyclone
33-8									
Del Monte Manor	1415 Del Monte Avenue		X	A				Common Area	Wood, Cyclone
Sanborn Estates	1025 N. Sanborn Road		X	A					Panel, Concrete
Sanborn Plaza	1039 N. Sanborn Road		X	A					Panel, Concrete
Sanborn Arms	1058 N. Sanborn Road		X	A					Panel, Cyclone
	Salinas, CA								

Preventiv... aintenance
Inventory of Items

Project Number/Name	Address	Fire Sprinkler System	Fire/Smoke Detectors	Meters (G=Gas, E=Elect., W=Water, A=All)	Air Handling Unit	Resident Neighbor Call System	Emergency Lights	Exit Lights	Fences (Indicate Type)
33-10									
No Name	1011 E. Laurel Drive		X	A					Wood, Cyclone
No Name	1029 Rider Avenue		X	A					Wood, Cyclone
No Name	1111 Alamo Way		X	A					Wood
No Name	1112 Alamo Way		X	A					Wood,
	Salinas, CA								Cyclone
33-11									
No Name	531 Watson Street		X	A					Wood
No Name	242 Montecito Avenue		X	A					Wood
	Monterey, CA								
33-12	1083 Elm Avenue		X	A			Community		Wood,
Los Ositos	Greenfield, CA					X	Center		Cyclone
33-14	1511, 1513, 1515 Wheeler Dr.		X						
Northridge Plaza Apts.	Salinas, CA	X		A					Wood
33-17									
Del Monte									
Townhomes	1259 Del Monte Avenue		X	A					Wood
No Name	1062 N. Sanborn Road	X	X	A					Wood, Cyclone
SFD	514 E. Alvin Drive		X	A					Wood
SFD	13073 Arthur		X	A					Wood
SFD	1569 Colusa Place		X	A					Wood
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Fire Sprinkler System	Fire/Smoke Detectors	Meters (G=Gas, E=Elect., W=Water, A=All)	Air Handling Unit	Resident Neighbor Call System	Emergency Lights	Exit Lights	Fences (Indicate Type)
33/18									
SFD	737 Mae Avenue #A		X	A					Wood
SFD	737 Mae Avenue #B		X	A					Cyclone
SFD	747 Mae Avenue #A		X	A					Cyclone
SFD	747 Mae Avenue #B		X	A					Cyclone
No Name	24 N. Wood Street		X	A					Wood, Cylcone
No Name	1113 D Street	X	X	A					Wood
No Name	1012 N. Sanborn Road		X	A					Wood, Cylcone
No Name	775 Elkington Avenue	X	X	A					Wood, Cylcone
No Name	780 Elkington Avenue	X	X	A					Wood, Cylcone
No Name	312 Williams Road		X	A					Wood, Cylcone
No Name	540 Williams Road		X	A					Wood, Cylcone
Duplex	1346/1348 Las Cruces Drive		X	A					Wood
SFD	1073 Sherman Way		X	A					Wood
SFD	1744 Cherokee Drive		X	A					Wood
SFD	18329 Van Buren		X	A					Wood
SFD	18861 Hoover Street		X	A					Wood
	Salinas, CA								
33-19									
El-Gin Village	350 Casentini Street								
	Salinas, CA	X	X	A					Wood, Cylcone
200									
SFD	10941 Pieri Court		X	A					Wood
SFD	10944 Pieri Court		X	A					Wood
	Moss Landing, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Fire Sprinkler System	Fire/Smoke Detectors	Meters (G=Gas, E=Elect., W=Water, A=All)	Air Handling Unit	Resident Neighbor Call System	Emergency Lights	Exit Lights	Fences (Indicate Type)
203 Catalyst Apts.	235 Martella Street Salinas, CA	X	X	A					wood
204 Oak Grove Apts.	1100 - 2nd Street Monterey, CA		X	A					wood, cyclone
205 Pueblo del Mar	3026-3044 Kwajalein Court 3048-3100 17th Regiment Ct. Marina, CA		X	A					cyclone
901 Lakeview Towers	58 Natividad Road Salinas, CA		X	A					wood, cyclone
902 Portola Vista	20 Del Monte Avenue Monterey, CA	X	X	A		X	Common Area	Common Area	wood, cyclone
903 King City Migrant Center	440 Jayne Street King City, CA	X	X	A	Common Area		Common Area	Common Area	wood, block, cyclone
904 Vista del Valle	24487 Grant Street Chualar, CA		X	A					
905 Paseo de Las Rosas	Salinas, Seymour, Pajaro, Haight, Speegle Streets Castroville, CA		X	A					cyclone

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Fire Sprinkler System	Fire/Smoke Detectors	Meters (G=Gas, E=Elect., W=Water, A=All)	Air Handling Unit	Resident Neighbor Call System	Emergency Lights	Exit Lights	Fences (Indicate Type)
906 Tesoros del Campo	La Posada Drive, California Street Salinas, CA	X	X	A					wood, cylcone
931 Casas del Sol	29 Sun Street Salinas, CA		X	A					wood, block, cylcone
934 Jardines Del Monte	1253 Del Monte Avenue Salinas, CA	X	X	A					wood, cylcone
935 Leo Meyer Senior Plaza	425 Queen Street King City, CA		X	A	Common Area	X	Common Area	Common Area	wood, cylcone
941 Casanova Plaza	800 Casanova Avenue Monterey, CA		X	A		X	X		wood, cylcone
942 Parksie Manor	1112, 1114, 1115 Parkside St. Salinas, CA		X	A		X	X		wood, block, cylcone
951 Plaza House	30 E. Market Street Salinas, CA	X	X	A			X		
Central Office	123 Rico Street Salinas, CA	X	X	A	X		X	X	cyclone

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Fire Sprinkler System	Fire/Smoke Detectors	Meters (G=Gas, E=Elect., W=Water, A=All)	Air Handling Unit	Resident Neighbor Call System	Emergency Lights	Exit Lights	Fences (Indicate Type)
Development Office	134 E. Rossi Street								
	Salinas, CA		X	A	X		X	X	cyclone

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Elevator	Stove	Refrig-erator	Dispos-al	Decks(D)/ Patios(P)/ Both (B)	Garage(G)/Car-ports(C)	Roofs/Gut-ters/Down-spouts	Playground Equipment
33-1	Calle Cebu, E. Rossi Street, Haciendas Place								
Laguna Haciendas	Salinas, CA		Gas	X				X	
33-2	Gabilan Court								
Gabilan Vista	Gonzales, CA		Gas	X				Roofs Only	
33-3	8th, 9th, 10th, Alta, Belden Streets								
Casa Santa Lucia	Gonzales, CA		Gas	X				Roofs Only	
33-5	48 C Street								
Casa de Oro	Gonzales, CA	X	Gas	X		B	C	X	
33-6	1030 Rider Avenue								
Rider Manor	Salinas, CA		Elec	X			C	X	
33-7	44 Natividad Road			X					
Oceanview Apts.	Salinas, CA		Gas			B		X	
33-8									
Del Monte Manor	1415 Del Monte Avenue		Elec	X		B	C	X	X
Sanborn Estates	1025 N. Sanborn Road		Elec	X		B	G	X	
Sanborn Plaza	1039 N. Sanborn Road		Elec	X		B	G	X	
Sanborn Arms	1058 N. Sanborn Road		Elec	X			G	X	
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Elevator	Stove	Refrig-erator	Dispos-al	Decks(D)/ Patios(P)/ Both (B)	Garage(G)/Car-ports(C)	Roofs/Gut-ters/Down-spouts	Playground Equipment
33-10								X	
No Name	1011 E. Laurel Drive		Gas	X		P		X	
No Name	1029 Rider Avenue		Gas	X				X	
No Name	1111 Alamo Way		Gas	X				X	
No Name	1112 Alamo Way		Gas	X					
	Salinas, CA								
33-11									
No Name	531 Watson Street		Gas	X		D	C	X	
No Name	242 Montecito Avenue		Gas	X		P	C	X	
	Monterey, CA								
33-12	1083 Elm Avenue		Elec	X		P		X	
Los Ositos	Greenfield, CA								
33-14	1511, 1513, 1515 Wheeler Dr.		Gas	X		B		X	X
Northridge Plaza Apts.	Salinas, CA								
33-17									
Del Monte Townhomes	1259 Del Monte Avenue		Elec	X		P	C	X	
No Name	1062 N. Sanborn Road		Elec	X		P		X	X
SFD	514 E. Alvin Drive		?	X		P	G	X	
SFD	13073 Arthur		Elec	X		P	G	X	
SFD	1569 Colusa Place		?	X		P	G	X	
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Elevator	Stove	Refrig-erator	Dispos-al	Decks(D)/ Patios(P)/ Both (B)	Garage(G)/Car-ports(C)	Roofs/Gut-ters/Down-spouts	Playground Equipment
33/18									
SFD	737 Mae Avenue #A		Gas	X		P	C	X	
SFD	737 Mae Avenue #B		Gas	X		P	C	X	
SFD	747 Mae Avenue #A		Gas	X		P	C	X	
SFD	747 Mae Avenue #B		Gas	X		P	C	X	
No Name	24 N. Wood Street		Elec	X			C	X	
No Name	1113 D Street		Gas	X		P	G	X	
No Name	1012 N. Sanborn Road		Elec	X		P		X	
No Name	775 Elkington Avenue		Elec	X		P		X	
No Name	780 Elkington Avenue		Elec	X		P		X	
No Name	312 Williams Road		Gas	X		B		X	
No Name	540 Williams Road		Elec	X		P		X	
Duplex	1346/1348 Las Cruces Drive		Gas	X		P	C	X	
SFD	1073 Sherman Way		Elec	X		P	G	X	
SFD	1744 Cherokee Drive		Elec	X		P	G	X	
SFD	18329 Van Buren		Elec	X		P	G	X	
SFD	18861 Hoover Street		Elec	X		P	G	X	
	Salinas, CA								
33-19									
El-Gin Village	350 Casentini Street		Gas	X		P		X	X
	Salinas, CA								
200									
SFD	10941 Pieri Court		Gas	X		P	G	X	
SFD	10944 Pieri Court		Gas	X		P	G	X	
	Moss Landing, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Elevator	Stove	Refrig-erator	Dispos-al	Decks(D)/ Patios(P)/ Both (B)	Garage(G)/Car-ports(C)	Roofs/Gut-ters/Down-spouts	Playground Equipment
203	235 Martella Street		Gas	X				X	
Catalyst Apts.	Salinas, CA								
204	1100 - 2nd Street		Gas	X		P	C	X	
Oak Grove Apts.	Monterey, CA								
205	3026-3044 Kwajalein Court		Gas	X		P	G	X	X
Pueblo del Mar	3048-3100 17th Regiment Ct.		Gas	X		P	G	X	X
	Marina, CA								
901	58 Natividad Road		Elec	X		B		X	
Lakeview Towers	Salinas, CA								
902	20 Del Monte Avenue	X	Elec	X	X	B	C	X	
Portola Vista	Monterey, CA								
903	440 Jayne Street		Gas	X		P		X	X
King City Migrant Center	King City, CA								
904	24487 Grant Street		Gas	X				X	X
Vista del Valle	Chualar, CA								
905	Salinas, Seymour, Pajaro, Haight, Speegle Streets		Gas	X				X	
Paseo de Las Rosas	Castroville, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Elevator	Stove	Refrig-erator	Dispos-al	Decks(D)/ Patios(P)/ Both (B)	Garage(G)/Car-ports(C)	Roofs/Gut-ters/Down-spouts	Playground Equipment
906	La Posada Drive, California Street		Gas	X					
Tesoros del Campo	Salinas, CA							X	X
931	29 Sun Street		Gas	X				X	
Casas del Sol	Salinas, CA								
934	1253 Del Monte Avenue		Gas	X	X	P		X	X
Jardines Del Monte	Salinas, CA								
935	425 Queen Street		Elec	X		P		X	
Leo Meyer Senior Plaza	King City, CA								
941	800 Casanova Avenue	X	Elec	X	X	B		X	
Casanova Plaza	Monterey, CA								
942	1112, 1114, 1115 Parkside St.	X	Gas	X	X	B	C	X	
Parkside Manor	Salinas, CA								
951	30 E. Market Street		Elec	X	X			X	
Plaza House	Salinas, CA								
Central Office	123 Rico Street		Elec	X				X	
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Elevator	Stove	Refrig-erator	Dispos-al	Decks(D)/ Patios(P)/ Both (B)	Garage(G)/Car-ports(C)	Roofs/Gut-ters/Down-spouts	Playground Equipment
Development Office	134 E. Rossi Street		Gas	X				X	
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Dumpster Enclosure	Parking Lots (indicate Type)						
33-1	Calle Cebu, E. Rossi Street, Haciendas Place		asphalt						
Laguna Haciendas	Salinas, CA								
33-2	Gabilan Court		concrete						
Gabilan Vista	Gonzales, CA								
33-3	8th, 9th, 10th, Alta, Belden Streets		concrete						
Casa Santa Lucia	Gonzales, CA								
33-5	48 C Street	X	asphalt						
Casa de Oro	Gonzales, CA								
33-6	1030 Rider Avenue	X	concrete						
Rider Manor	Salinas, CA								
33-7	44 Natividad Road	X	asphalt						
Oceanview Apts.	Salinas, CA								
33-8									
Del Monte Manor	1415 Del Monte Avenue	X	asphalt						
Sanborn Estates	1025 N. Sanborn Road	X	concrete						
Sanborn Plaza	1039 N. Sanborn Road	X	concrete						
Sanborn Arms	1058 N. Sanborn Road	X	concrete						
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Dumpster Enclosure	Parking Lots (indicate Type)						
33-10									
No Name	1011 E. Laurel Drive	X	asphalt						
No Name	1029 Rider Avenue	X	asphalt						
No Name	1111 Alamo Way	X	asphalt						
No Name	1112 Alamo Way	X	asphalt						
	Salinas, CA								
33-11									
No Name	531 Watson Street	X	concrete						
No Name	242 Montecito Avenue	X	concrete, asphalt						
	Monterey, CA								
33-12	1083 Elm Avenue	X	asphalt						
Los Ositos	Greenfield, CA								
			asphalt						
33-14	1511, 1513, 1515 Wheeler Dr.	X	asphalt						
Northridge Plaza Apts.	Salinas, CA								
33-17									
Del Monte Townhomes	1259 Del Monte Avenue		asphalt						
No Name	1062 N. Sanborn Road	X	concrete						
SFD	514 E. Alvin Drive		concrete						
SFD	13073 Arthur		concrete						
SFD	1569 Colusa Place		concrete						
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Dumpster Enclosure	Parking Lots (indicate Type)						
33/18									
SFD	737 Mae Avenue #A		concrete						
SFD	737 Mae Avenue #B		concrete						
SFD	747 Mae Avenue #A		concrete						
SFD	747 Mae Avenue #B		concrete						
No Name	24 N. Wood Street	X	asphalt						
No Name	1113 D Street	X	concrete						
No Name	1012 N. Sanborn Road	X	concrete						
No Name	775 Elkington Avenue	X	concrete						
No Name	780 Elkington Avenue	X	concrete						
No Name	312 Williams Road		concrete						
No Name	540 Williams Road	X	concrete						
Duplex	1346/1348 Las Cruces Drive		concrete						
SFD	1073 Sherman Way		concrete						
SFD	1744 Cherokee Drive		concrete						
SFD	18329 Van Buren		concrete						
SFD	18861 Hoover Street		concrete						
	Salinas, CA								
33-19									
El-Gin Village	350 Casentini Street	X	asphalt						
	Salinas, CA								
200									
SFD	10941 Pieri Court		concrete						
SFD	10944 Pieri Court		concrete						
	Moss Landing, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Dumpster Enclosure	Parking Lots (indicate Type)						
203	235 Martella Street	X	asphalt						
Catalyst Apts.	Salinas, CA								
204	1100 - 2nd Street	X	asphalt						
Oak Grove Apts.	Monterey, CA								
205	3026-3044 Kwajalein Court		concrete						
Pueblo del Mar	3048-3100 17th Regiment Ct.								
	Marina, CA								
901	58 Natividad Road	X	asphalt						
Lakeview Towers	Salinas, CA								
902	20 Del Monte Avenue	X	asphalt, concrete						
Portola Vista	Monterey, CA								
903	440 Jayne Street	X	asphalt						
King City Migrant Center	King City, CA								
904	24487 Grant Street	X	asphalt						
Vista del Valle	Chualar, CA								
905	Salinas, Seymour, Pajaro, Haight, Speegle Streets	X	asphalt						
Paseo de Las Rosas	Castroville, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Dumpster Enclosure	Parking Lots (indicate Type)						
906	La Posada Drive, California Street	X	asphalt						
Tesoros del Campo	Salinas, CA								
931	29 Sun Street	X	asphalt						
Casas del Sol	Salinas, CA								
934	1253 Del Monte Avenue	X	asphalt						
Jardines Del Monte	Salinas, CA								
935	425 Queen Street	X	asphalt						
Leo Meyer Senior Plaza	King City, CA								
941	800 Casanova Avenue	X	asphalt						
Casanova Plaza	Monterey, CA								
942	1112, 1114, 1115 Parkside St.	X	asphalt						
Parkside Manor	Salinas, CA								
951	30 E. Market Street								
Plaza House	Salinas, CA								
Central Office	123 Rico Street		asphalt						
	Salinas, CA								

Preventive Maintenance
Inventory of Items

Project Number/Name	Address	Dumpster Enclosure	Parking Lots (indicate Type)						
Development Office	134 E. Rossi Street								
	Salinas, CA		Asphalt						

Attachment #11

Maintenance Work Control Procedures

MAINTENANCE WORK CONTROL PROCEDURES

Housing Authority of the County of Monterey

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ABBREVIATIONS USED

ADHM	**Assistant Director of Housing Management**
DHM	**Director of Housing Management**
DMS	**Data Management System**
HACM	**Housing Authority of the County of Monterey**
HM	**Housing Manager**
IS	**Inventory Specialist**
MC	**Maintenance Coordinator**
MM	**Maintenance Manager**
RHM	**Regional Housing Manager**
WO	**Work Order**

Maintenance Work Control Procedures
Housing Authority of the County of Monterey

Purpose

The purpose of this document is to outline procedures to be followed by all Housing Authority of the County of Monterey (HACM) employees in the identification, planning, scheduling, and execution of maintenance work at Authority facilities. Other HACM procedures interface with this document and should be referenced for additional information and specific details. This document is based on the following criteria as a foundation:

- Safety, health and security of tenants, employees and the public.
- Protection of tenant and HACM property and facilities.
- Tenant quality of life.
- Efficient use of HACM resources and funds.

In the event questions arise or details described in this document are not applicable to the specific situation, these criteria should be applied by employees in their decision making process.

A. Work Identification

Work at HACM properties may be identified by various sources, including tenants, HACM employees during the conduct of their duties, periodic inspections, and outside sources. The following procedures will be used to process these inputs and ensure that work is entered into the Maintenance Work Control System for appropriate review, approval, planning, scheduling, and execution.

<u>Tenant Requests</u>

Tenants normally report work required in their units via a phone call to the HACM office. These requests will be forwarded to the Maintenance Coordinator (MC) or the Inventory Specialist (IS) who will:

1. Discuss the work request with the caller, obtaining as much information as possible on the nature and severity of the problem.
2. Initiate a Work Order (WO) using the Data Management System (DMS).
3. Determine the appropriate Work Priority Classification for the work requested (See attached Work Priority Classification Descriptions).
4. Forward a copy of the work request to the Regional Housing Manager (RHM) for processing.

HACM Employee Findings

1. The employee discovering a work requirement will contact the MC/IS and explain the work requirement in detail.
2. The MC/IS will generate and process a WO following the procedures outlined above.

Unit Inspections

Work also is generated by periodic inspections of HACM units such as the following:

- Annual Unit Inspections
- Annual Facility Inspections
- Unit Vacancy Inspections
- Monthly Property Inspections

The following procedures will be used to identify and initiate work requirements as a result of these inspections.

1. The employee(s) performing the unit inspection will complete a copy of the HACM Condition of Dwelling Checklist (copy attached), providing as much detail as possible for each deficiency noted during the walk through of the unit.
2. The completed checklist will be forwarded to the MC/IS who will initiate a WO in the Data Management System.
3. A copy of the WO will be printed for the RHM's review, approval and processing according the procedures listed below.

Other

On occasion, work may be identified by outside sources such as Board members, utility companies, police or fire department personnel, etc. Due to the potential sensitivity of such input, the HACM employee receiving notification of deficiencies via these sources will immediately notify the Assistant Director of Housing Management (ADHM) of the requirement. The ADHM will initiate corrective actions as s/he deems appropriate, to endure prompt attention is given to the matter and appropriate feedback is provided to the initiator.

B. Work Order Generation

Work will not be performed at HACM facilities without proper approval, control, and documentation. The vehicle for this approval and for overall planning, scheduling, and accounting of work accomplished at HACM facilities is the WO form. This form is generated by the MC/IS, using the DMS.

Work Priority Classification

The overall criteria for the sequencing of work to be performed are based on the priority of the requirement. Four categories are used in assigning these priorities. These are:

- Emergency
- Urgent
- Routine
- Deferred

The attached Work Priority Classifications list defines each type of work and provides guidelines to assist in assigning the priority classification. The MC/IS assigns the initial priority classification when the WO is generated; however, the responsibility for ensuring that each work order is given the proper priority rests with the RHM. The ADHM is the final authority in the event of questionable priority decisions.

Work Order Development

Detailed procedures for operation of the Maintenance Module in the DMS are contained in separate documents which should be references as required. The following sections provide procedures to be followed for administrative matters associated with initiating, processing, approving, and processing work orders.

1. Initiation

   Work orders are initiated by the MC/IS upon notification of a requirement by one of the sources listed above. Various items of information such as WO number, tenant information, address, etc., are automatically filled in by the system; however, the MC/IS will verify each item to ensure it is correct.

   The MC/IS will give the work requestor the WO number assigned to their request to permit future status tracking by the requestor.

   It is essential that the MC/IS enter each item of required work as a separate task on the WO, since these affect each future step in the process of WO processing. The MC/IS must receive enough information from the requestor at the initial discussion to ensure that all work can be clearly defined.

   The MC/IS will review each of the work orders generated to ensure completion of all required information before printing hard copies of the WO. If information is lacking or unclear, the MC/IS will contact the requestor to obtain the required information. The MC/IS will then update the WO with correct and complete information.

2. Processing

Upon completion of the initial WO generation process, the MC/IS will print three copies of the WO form once each day for routine class work and forward them to the RHM.

In the case of Emergency and Urgent work requirements, the MC/IS will immediately notify the RHM of the situation and print three copies of the WO form for his/her attention.

The RHM will review each work order to ensure it is properly classified, contains all required information and is, in fact, work that should be performed, and will initial the WO as approved for accomplishment.

The RHM will determine the approximate cost of the work and either approve the work or forward it to the ADHM if s/he feels it may be above his/her own approval limit. (See Purchasing Policy for approval limits)

The RHM will process each work order using the procedures below.

3. Approval

Prior to further processing, approval to perform the work requested must be obtained. The work approval limits outlined in the Purchasing Policy will be followed except for extreme emergency conditions involving the preservation of life, safety, and preservation of Authority or tenant property. The limits include all estimated labor, material, equipment rental and contractor assistance required to complete the work. In-house labor costs will be priced at the rate established by the Director of Finance.

Developing and approving multiple work orders for the same unit with the purpose of circumventing these limits is known as "pyramiding work" and is an attempt to exceed the authority granted to a manager. <u>This practice will not be tolerated and may result in disciplinary action.</u>

4. Reports

In order to track and assess the efficiency and effectiveness of the maintenance effort on a periodic basis, various reports must be produced, reviewed, and forwarded to the Director of Housing Management (DHM) and Assistance Director of Housing Management (ADHM). Management indicators contained and derived from these reports provide a checkpoint for management to assess the overall condition of the maintenance effort.

It is the responsibility of the MC/IS to initiate the report generation process and distribute the reports to the RHM, ADHM, and DHM. Types of reports and frequency of generation and required distribution will depend on the needs of the department.

The RHM and ADHM will review each report as soon as it id received, with the purpose of identifying potential problem areas. This may be items such as excessive WO backlogs, unusual cost or labor over-runs, excessive turnaround times for vacant units, etc. S/he will develop corrective actions to remedy the situation and advise the DHM of proposed actions to be taken to correct the problem.

The DHM will meet with the ADHM and RHM on a regular basis to review these findings and corrective actions underway, and will keep the Executive Director informed on the overall management indicators in the maintenance area.

C. Work Planning

In order to endure that work is performed efficiently and as economically as possible, it must be planned prior to assignment to the MWs for accomplishment. The responsibility for proper work planning rests with the RHM and Housing Manager (HM).

Since the RHM also schedules and supervises work accomplishment and is familiar with the capabilities of his/her personnel and the availability of material, it is obvious that small jobs for which material is readily available need not be formally planned. Rather, it is more efficient to assign such work to the appropriate MW who can accomplish the task with materials readily available in the project supply cabinet. **It is essential that proper accounting of time and materials be accomplished for these jobs as well. A WO form must be processed for all jobs, including vacancy maintenance, and the labor and material used for the tasks documented by the MW using the procedures described below in the section entitled "Work Documentation".**

<u>The RHM and HM will ensure that all work orders estimated to require more than 4 hours of labor and/or more than $200 worth of material are planned.</u> This planning may be only preparing a labor estimate and material list on the WO form itself for smaller, less complex tasks, to full scale detailed work planning and scheduling of crews, material deliveries and contractors for larger projects.

<u>In-House vs. Contract Accomplishment</u>

Most routine work orders will normally be completed by using in=house labor. However, contract accomplishment may be warranted if,

- backlog of work to be done becomes excessive
- required skills or equipment are not available in-house
- it is more economical to contract out the effort

- projects will consume an extensive amount of time and effort and delay normal work accomplishment
- it is otherwise in the best interest of the HACM to contract out the work.

The RHM will recommend work which s/he feels should be contracted out to the ADHM for review and approval.

The decision to contract out work rests at the level of approval listed in the Procurement Policy.

Separate procedures have been developed for contract procurement and administration and must be followed in these cases. The WO will be reference d with the contract number and forwarded to the Procurement and Contracts Manager for filing in the contract file.

Material Requirements

Material required for each planned work order will be estimated. The MW will assemble the material for each WO, using stock available in the supply cabinet whenever possible. Remaining materials required will be purchased from an approved vendor.

Equipment Requirements

Special equipment needed for WO accomplishment will be determined by the RHM and, if not available in house, will be rented or borrowed from other agencies. Rental costs must be considered in the estimate and accounted for on the WO form. Approval limits listed in the procurement policy must be followed.

Labor Requirements

The RHM will prepare an estimate of the labor hours required for each WO. This estimate must be made by skills required if separate skills are needed (ie., plumber, electrician, carpenter, etc.). The estimated man hours for each task, by skill, on the WO will be estimated and entered on the form. If general maintenance mechanics will be used to complete the entire WO, a skill break out is not required; however, man hours for each task will be entered.

D. Work Scheduling

Work scheduling is an essential part of efficient maintenance operations. Work can be accomplishment without scheduling; however, it often results in lost time and poor productivity and inefficient use of man hours due to improper panning. Therefore, unscheduled work, other than emergency responses, should be avoided.

Three major factors affect the scheduling of HACM work accomplishment. These are:

- Availability of Material and/or Equipment
- Labor Availability
- Customer Requirements

The Maintenance Division's primary customers, other than the tenants, are the Housing Managers in the Housing Management Department. It is essential that close communications and a "client attitude" be fostered and maintained by the Maintenance personnel toward the Housing Managers. Vacant units must be renovated within the agreed upon time period and returned to the HMs on or before the date promised.

Weekly Schedule

The RHM will prepare a weekly schedule. This schedule will be completed by close of business on the preceding Thursday for the following week. A copy of the schedule will be forwarded to the ADHM for informational purposes.

The schedule is a dynamic tool and will be used to make daily work assignments. It must be annotated daily to reflect work accomplished and deviations from scheduled work.

Housing Managers will be advised immediately if vacancy maintenance is delayed and will impact on scheduled completion of work and tenant move in dates. If the tenant move in is delayed, early notification is essential. Housing Managers will notify the prospective tenant if uncorrectable delays are encountered.

A sample work schedule form is attached to this document along with general scheduling guidelines which discuss reserving some man hours for Emergency and Urgent work as well as Preventive and Recurring Maintenance requirements.

E. Material Issue

Material used on work orders must be properly accounted for and charged to the facility on which it was used.

Authorization

An approved work order, signed by the appropriate manager, is the MW's authorization to issue materials and supplies for use on Authority work.

Supply Cabinet Procedures

Upon assignment of a planned WO, the MW will review it for a list of the required material. Authorization for release of material from the property supply cabinet is the initialed copy of the WO presented to the MW. No material will be issued with an approved and assigned WO.

All material removed from the supply cabinet must be accounted for the on the WO and on the cabinet inventory list.

Supply cabinet material consists of commonly used maintenance items such as an assortment of bolts, screws, nails, outlet covers, switches, etc. that a MW uses regularly in the completion of many tasks. Cost of supply cabinet items is charged to a WO as they are used to complete the assigned work.

The RHM or Maintenance Manager (MM) will furnish a standard list of basic supply cabinet stock material to the MW for issue to work orders. Special items may be added to individual MW's supply cabinets if the tasks they routinely perform warrant them.

As MWs deplete their supply cabinet materials, they will requisition resupplies from the HM by completing a requisition. This requisition will be signed and dated by the HM or RHM (depending on purchasing authority) and the MW.

F. Work Accomplishment

Work must be accomplished by the MW is an efficient and economical manner. HACM employees are hired and promoted, of appropriate, based on their experience, capabilities and potential; therefore, top quality work is expected of each individual. Work orders are carefully planned and estimated and the majority should be completed within the time limit approved. However, circumstances may occur that cause deviations from the planned effort.

All work performed will be accomplished in a careful, safe and prudent manner in accordance with the HACM personnel Policy, Injury and Illness Prevention Plan, and OSHA standards. If any work cannot be safely accomplished, the employee will immediately report the situation to his/her supervisor for guidance.

Labor Over Runs

If assigned work cannot be completed within the hours estimated on the WO, the MW will notify the RHM/HM of the situation. The RHM and HM will review the work completed, the remaining work, and any required completion date commitments and determine the appropriate corrective action (ie., overtime, additional personnel, contractor, etc.). Appropriate approvals will be obtained for overtime. The weekly work schedule will be annotated to show the slippage and appropriate time adjustments made to the schedule. The RHM/MW will immediately notify the HM if vacant unit return dates are impacted.

Material Shortage

If sufficient material is not available to complete the assigned work, the MW will estimate the additional material required and present a supplemental list to the RHM/HM

as soon as the shortage is noticed. The RHM will review the situation and, if in agreement, authorize the supplemental list of materials to be purchased.

Excess Material

If, upon completion of all tasks on the WO, material remains that was not used, the MW will return the material to the project supply cabinet, noting the type and number of returned items on the inventory along with the work order number from which they were originally drawn. Care must be used in this area to avoid accumulating excess material from jobs.

Any unserviceable items carried on the HACM Fixed Assets Inventory (refrigerators, stoves, water heaters, pumps, motors, etc.) that are removed from a facility will be returned to HACM for deletion from the inventory records and for proper disposal. Serial numbers of the new replacement item will be furnished to Finance for use in updating the inventory records. Broken or unusable tools and equipment will also be turned in to the RHM before replacements are issued.

When excess material is returned to the supply cabinet, the MW will restock the material in the supply cabinet and credit the WO with the returned items. The Supply Cabinet inventory list will also be updated at the same time.

Work Stoppage

Work stoppages are costly to the Authority and disruptive to organized maintenance. Every effort must be made to avoid these situations. Proper planning is the key to control in this area.

In the event circumstances occur to cause a work stoppage, the MW will immediately notify the RHM/HM of the situation. The RHM is responsible for initiating corrective actions to prevent or limit the work stoppage. If work must be stopped, the weekly work schedule will be annotated with the fact and a brief explanation entered on the schedule. Work will be rescheduled and reassigned for completion as soon as the circumstances causing the stoppage are corrected.

G. Work Documentation

Proper accounting of material and labor used in work performance is the foundation of efficient maintenance management. This documentation permits the development of a historical record and is used in determining budgets, staffing levels, future work plans, and in planning individual jobs in the future.

Labor Hours

Upon completion of each task assigned to him/her on a work order, the MW will write the number of hours used for the task on the WO. At close of business each day, s/he

will turn completed work orders in to the RHM and advise the RHM of the hours used and anticipated remaining work for each WO carried over in to the following day.

The RHM will annotate the weekly work schedule and adjust it to reflect the work progress and work remaining as required.

Materials Used

If properly used, the materials list should be an accurate record of material used on individual work orders. However, if the MW uses additional or other material in the accomplishment of the task, s/he will annotate the WO with the items used.

Certification

Upon completion of each WO, the MW will sign and date the WO form as completed. His/her signature is certification that all work is completed except as noted, and the hours and materials used are accurate.

The completed WO forms must be returned to the RHM each day. After reviewing the form, the RHM will initial each WO and forward it the MC/IS.

The MC/IS will enter the hours used on each WO into the DMS and ensure a final copy is properly filed.

If tenant charges are applicable, the MW will annotate the WO with the recommended charge for both time and material. The RHM will review these costs and, if in agreement, initial the WO to indicate approval. A copy of the WO with the proposed charge will be forwarded to the appropriate HM for processing. The HM will be the final decision authority on the tenant charges. If the HM approves the charge, they will initial the WO and return it to the MC/IS for processing. The MC/IS will forward a completed copy to Finance for billing.

H. Quality Control

Quality control starts with the MW and is the responsibility of each individual associated with the work. Top quality work is expected of each individual.

Completion Inspection

The RHM/MM or HM will personally inspect all major work orders, especially vacant unit rehabs, to ensure that work is completed and the unit ready for return to Housing Management for tenant move in. In addition, s/he will spot check smaller jobs to verify that the MW are performing maintenance to the level of quality established by the Authority.

The Maintenance Manager (MM) will conduct random quality control inspections of completed work orders to insure that the work is completed properly. Should problems in work quality be detected, the MM will refer his/her findings to the RHM for corrective actions.

Deficiency Correction

In the event that deficiencies are found, the RHM will immediately take appropriate action to correct the problem and complete the WO. Generally, the MW leaving the deficiency should be assigned to correct the problem if it is within his/her ability. Appropriate training (or disciplinary action if a pattern develops) should be applied to prevent a recurrence of the deficiency in future work.

Housing Management Acceptance

After the MW is satisfied that the vacant units are ready for return to service, s/he will notify the HM and schedule a joint walk through inspection of the unit. A complete inspection should be performed to note all problems to be corrected. The HM will inspect the unit and accept the unit or point out deficiencies to be corrected. IF deficiencies remain, the MW will immediately ensure that they are corrected. The final decision to accept the unit rests with the HM.

Tenant Feedback

In addition to the Quality Control efforts of the MW, the spot inspections by the MM and completion inspections by the HM, tenant feedback will be used as a measure of work performance.

A random survey will be conducted of tenants who have requested work in their unit. Surveys returned to HACM will be reviewed by the RHM and MM and forwarded to the ADHM and DHM for their review. In the event of tenant dissatisfaction, the RHM will contact the HM and discuss the situation. The HM will serve as the point of contact with the tenant to resolve the situation.

Maintenance workers will be informed of the responses to their work in order to improve employee performance.

Work Priority Classifications

The following work priority classifications were developed to provide all Authority employees with a guide to determine the criticality of maintenance work required at Authority facilities. These definitions should be used when making decisions concerning the allocation of Authority resources, including use of in-house maintenance employees, the expenditure of Authority funds for contracted work, and general allocation of employee time. Other factors may influence these decisions; however, these classifications provide the foundation for determining responses to tenant call and overall allocation of effort, time and funds.

Criteria

The work classifications are based on the following criteria which should be remembered when "grey areas" develop:

- Safety, health, and security of tenants, Authority employees, and the public.
- Protection of tenant and Authority property and facilities.
- Tenant quality of life.
- Efficient use of Authority resources and funds.

Work Classifications

A. Emergency

Emergency work is work that takes priority over all other pending requirements for time and funds, and that requires immediate correction to preserve safety, health or the security of tenant property and Authority facilities. Immediate action must be taken to respond to emergency requirements and all required and available resources should be applied to alleviate the emergency conditions and prevent further damage. Abatement of the emergency must be completed within 24 hours. Further repairs should be conducted as urgent work as defined below.

B. Urgent

Urgent work is work that should be accomplished by the first available means during normal working hours. Resources should not be diverted from previously scheduled tasks; however, prompt and timely attention is required to prevent the condition from developing into an emergency situation, or resulting in health, safety or security problems or damage to property. Response to urgent work requirements should occur as soon as possible during normal working hours. Urgent work should be completed within 48 hours of the requirement.

C. Routine

Routine work is normal work requirements that should be accomplished in a systematic, scheduled and planned manner. The bulk of the Authority's work requirements fall into this category. Work which must be completed in the near future but does not severely impact or limit facility use or impact health, safety and/or security of tenants is routine work. Failure to accomplish routine work continues inconveniences to tenants, unsightly conditions and gradual deterioration of Authority facilities. Routine work should normally be completed in 10 days and cannot exceed 20 days to completion.

D. Deferred

Deferred work is work for which resources (time, skills, equipment, material or funds) are not immediately available or which could be more efficiently and economically accomplished by delaying the specific work items and combining similar requirements into a larger project. Additionally, some work requirements should be classified as deferred work if weather conditions prevent efficient and economical accomplishment within the next thirty to sixty days. Care must be taken to ensure deferred work is planned for accomplishment and not "lost in the system." As a general rule of thumb, deferred work should be accomplished within the coming twelve months. The majority of deferred work is initiated by routine facility inspections by Authority personnel, rather than by tenant requests.

Work Classification Decision Chart

The following are examples of Work Requirements and appropriate classifications listed by major functional areas. Good judgment must be applied in deterining classification. For example, normally urgent requirements may increase to emergencies depending on time period before response can be made (as on long holiday weekends).

REQUIREMENT	EMERGENCY	URGENT	ROUTINE	DEFERRED
Electrical				
Switches, outlets, fixtures, circuit breakers smoking or smelling of smoke	X			
No electricity in unit or complex	X			
Part of apartment is without power (May be an emergency if essential appliances are affected)		X		
All exterior lights are inoperative	X			
Switch, outlet, fixture is inoperative		X		
Cover plate broken			X	
Exterior power line down	X			
Plumbing				
Water is leaking in apartment	X			
No water to entire apartment or complex	X			
Exterior water line leaking	X			
Faucet is dripping		X		
Sewage is leaking into apartment or outside	X			
Sump pump alarm is sounding	X			
Commode is plugged, no other in apartment	X			
Commode is plugged, other commode is available in apartment		X		

Work Classification Decision Chart

REQUIREMENT	EMERGENCY	URGENT	ROUTINE	DEFERRED
Plumbing (continued)				
Sink, lavatory or tub is plugged		X		
Tub, shower, lavatory inoperative, no leaks		X		
Fixture cracked, no leaks			X	
Sewer problem in multiple units in complex	X			
No hot water to unit		X		
No hot water to entire complex	X			
No heat to elderly unit (Temperature outside below 55 degrees)	X			
No heat to family unit (Temperature outside below 55 degrees)		X		
No heat to entire complex	X			
Smell of gas, gas leak	X			
Building Structure and Grounds				
Door, lock or window broken, security threatened	X			
Roof leaking	X			
Window cracked			X	
Door or window sticking			X	
Damage to unit from storm or earthquake	X			
Storm sewers plugged, flooding may occur	X			
Fire	X			

Work Classification Decision Chart

REQUIREMENT	EMERGENCY	URGENT	ROUTINE	DEFERRED
Building Structure and Grounds (continued)				
Trees/limbs fallen creating safety or access problems	X			
Graffiti		X		
Painting required			X	
Floor covering/baseboard torn, broken			X	
Excessive or unsightly trash on premises		X		
Paint unit interior			X	
Paint exterior of complex				X
Repair decks				X
Appliances				
Refrigerator or range inoperative		X		
Disposal inoperative			X	
Replace knobs, shelves, burners, etc.			X	
Upgrade appliances				X
Alarms				
Fire, security or sump alarms sounding	X			
Alarms inoperative (May require an emergency response)		X		
Individual smoke alarm inoperative		X		

Attachment #12

Financial Audit

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY

BASIC FINANCIAL STATEMENTS

FOR THE YEAR ENDED
JUNE 30, 2007

AND INDEPENDENT AUDITORS' REPORT

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY

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HAYASHI & WAYLAND
ACCOUNTING & CONSULTING, LLP

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INDEPENDENT AUDITORS' REPORT

To the Board of Commissioners
Housing Authority of the County of Monterey
Salinas, California

We have audited the accompanying financial statements of the enterprise fund, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the ***Housing Authority of the County of Monterey*** as of and for the year ended June 30, 2007 which collectively comprise the basic financial statements as listed in the foregoing table of contents. These financial statements are the responsibility of the management of the ***Housing Authority of the County of Monterey***. Our responsibility is to express an opinion on these financial statements based on our audit

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in "Government Auditing Standards" issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial reports are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the enterprise fund activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the ***Housing Authority of the County of Monterey*** as of June 30, 2007 and the changes in financial position and cash flows where applicable for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with "Government Auditing Standards," we have also issued a report dated March 22, 2008 on our consideration of the ***Housing Authority of the County of Monterey's*** internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with "Government Auditing Standards" and should be considered in assessing the results of our audit.

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The Management's Discussion and Analysis on pages 4 through 12 are not a required part of the basic financial statements, but are supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements of the ***Housing Authority of the County of Monterey***. The accompanying schedule of expenditures of federal awards required by the U.S. Office of Management and Budget Circular A–133, *Audits of States, Local Governments, and Non–Profit Organizations*, and the accompanying financial information listed as supplemental information in the table of contents are presented for purposes of additional analysis and are not a required part of the basic financial statements of the ***Housing Authority of the County of Monterey*** Such information has been subjected to the auditing procedures applied in the audit of the financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

March 23, 2008

Hayashi + Wayland

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR THE YEAR ENDED JUNE 30, 2007

This section of Housing Authority of the County of Monterey's annual financial report presents management's discussion and analysis of the Authority's financial performance during the year ended June 30, 2007. The focus of Management's Discussion and Analysis (MD&A) is on the primary government and the discretely presented component units information is only discussed when necessary to present a financial analysis of the primary government after giving consideration to the component unit's significance to the total of all discretely presented component units and that component unit's relationship with the primary government. Since the MD&A is designed to focus on the current year activities, resulting changes and currently known facts, please read it in conjunction with the Authority's basic financial statements, which begin on page 12. Comparisons to and analysis of the prior year are incorporated where appropriate.

FINANCIAL HIGHLIGHTS

- The Authority's net assets increased by $244,154 (or 0.4%) during 2007. Since the Authority engages only in business–type activities, the increase is all in the category of business–type net assets. Net Assets were $64,949,123 and $64,704,969 as of June 30, 2007 and 2006, respectively.
- The Authority's return on total ending net assets was nearly 0.4%.
- Total cost of all of the Authority's programs was $42,038,588 in 2007 and $40,093,290 in 2006.

OVERVIEW OF THE BASIC FINANCIAL STATEMENTS

The Authority has chosen to present its basic financial statements using the reporting model for special–purpose governments engaged in only business–type activities for the primary government. This model allows all financial information for the organization to be reported in a single column in each of the financial statements of the primary government. The Authority also presents the aggregate discretely presented component units in a separate column.

The basic financial statements include a Statement of Net Assets, Statement of Revenues, Expenses, and Changes in Net Assets, Statement of Cash Flows, Combining Statement of Net Assets, Combining Statement of Revenues, Expenses, and Changes in Net Assets, Combining Statement of Cash Flows, Notes to Basic Financial Statements, an Independent Auditors' Report thereon and this Management's Discussion and Analysis. Readers of these basic financial statements are encouraged to consider the report as a whole to obtain a complete understanding of the Authority's financial condition.

Statement of Net Assets – The Statement of Net Assets is a report of the Authority's assets, liabilities and net assets. Assets and liabilities are reported at book value, on an accrual basis as of the statement date. Assets and liabilities have been segregated between Current (expected to be liquidated or paid within one year) and Noncurrent. Net assets are reported in major categories reflecting any restriction thereon.

Statement of Revenues, Expenses, and Changes in Net Assets – The Statement of Revenues, Expenses, and Changes in Net Assets presents the Authority's revenue earned and expense incurred during the period on an accrual basis. The Statement has been segregated into operating and nonoperating sections.

OVERVIEW OF THE FINANCIAL STATEMENTS (Continued)

Statement of Cash Flows – The Statement of Cash Flows presents the source and uses of cash and is segregated into operating, capital and related financing, noncapital financing and investing activities. The direct method of cash flows reporting has been used and an indirect method of calculating cash provided (used) by operations is also presented.

Fund Financial Statements – The fund financial statements provide more detailed information about the Authority's most significant funds. The Authority consists exclusively of Enterprise Funds, but the focus now is on Major Funds, rather than fund types. In order to be selected as a major fund, the fund's assets, liabilities, revenues, or expenses should be at least 10% or more of the fund type's total assets, liabilities, revenues or expenses and at least 5% or more of the Authority's total assets, liabilities, revenues or expenses. Since the Authority has only one fund type, this criteria is used to determine major funds. The Enterprise method of accounting is similar to accounting utilized by the private sector accounting. Many of the Funds maintained by the Authority are required by the Department of Housing and Urban Development. Others are segregated to enhance accountability and control.

Accounting Changes – In accordance with Accounting Research Bulletin No. 51, "Consolidated Financial Statements (ARB 51) and Emerging Issues Task Force (EITF) No. 04–05, "Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights," the Housing Authority of the County of Monterey changed its accounting method for its component units' investment in various limited partnerships, from the purchase method to consolidation method.

The Authority's financial reporting entity is comprised of the following:

Primary Government	Housing Authority of the County of Monterey
Discretely Presented Component Units	Monterey County Housing, Inc. and Affiliate Housing Authority of the County of Monterey Health and Welfare Trust
Blended Component Units	Tynan Village, Inc. Monterey County Housing Authority Development Corporation Housing Authority, LLC Rippling River, LLC Soledad Affordable Housing, LLC Salinas New Markets Development Company, LLC

In determining the financial reporting entity, the Authority complies with the provisions of Government Accounting Standards Board (GASB) Statement No. 14, "The Financial Reporting Entity" and Statement No. 39, "Determining Whether Certain Organizations are Component Units."

THE AUTHORITY'S FUNDS

Business Type Funds

Operating Fund – This is the Authority's main operating fund and it is always classified as major in accordance with GASB Statement No. 34.

Conventional Public Housing – Under the Conventional Public Housing Program, the Authority rents units that it owns to low–income households. The Conventional Public Housing Program is operated under an Annual Contribution Contract (ACC) with HUD, and HUD provides Operating Subsidy and Capital Grant funding to enable the PHA to provide the housing at a rent that is based upon 30% of household income. The Conventional Housing program also includes the Capital Fund Program, which is the primary funding source for physical and management improvements to the Authority's properties.

Housing Choice Voucher Program – Under the Housing Choice Voucher Program, the Authority administers contracts with independent landlords that own the property. The Authority subsidizes the family's rent through a Housing Assistance Payment made to the landlord. The Program is administered under an Annual Contributions Contract (ACC) with HUD. HUD provides Annual Contributions Funding to enable the Authority to structure a lease that sets the participant's rent at 30% of household income.

Non–Major Funds – In addition to the major funds above, the Authority also maintains the following non–major funds:

Farm Labor Housing Fund
Supportive Housing Fund
Section 8 Modernization and Rehabilitation Program Fund
State Funded Program Funds
Other business type activity Funds

COMPARATIVE ANALYSIS

Statements of Net Assets – A comparative summary of the Authority's Statements of Net Assets as of June 30, which generally reflects its financial condition, is as follows:

	PRIMARY GOVERNMENT– ENTERPRISE FUND		COMPONENT UNITS	
	2007	2006 (RESTATED)	2007	2006 (RESTATED)
Current and non-current assets	$ 39,570,190	$ 37,811,739	$ 2,968,099	$ 2,870,381
Capital assets	88,851,586	57,783,846	11,903,091	11,902,847
Total assets	128,421,776	95,595,585	14,871,190	14,773,228
Current and noncurrent liabilities	16,424,253	15,121,131	1,870,209	1,480,579
Long–term liabilities	42,721,030	15,766,485	11,860,464	11,860,010
Total liabilities	59,145,283	30,887,616	13,730,673	13,340,589
Non–controlling interests	4,327,370	–	(447,362)	(181,523)
Net assets:				
Invested in capital assets, net of related debt	39,100,317	39,452,674	42,627	315,867
Restricted	4,134,021	3,762,969	–	–
Unrestricted	21,714,785	21,489,326	1,545,252	1,298,295
Total net assets	$ 64,949,123	$ 64,704,969	$ 1,587,879	$ 1,614,162

Major Factors Affecting the Statements of Net Assets –

Current year net assets increased by $244,154 over the prior year's restated net assets of $64,704,969 due primarily to net surplus from operations.

Current year capital assets increased by $31,067,740 due to four developments of low income housing tax credit projects. The Authority has set up nonprofit 501(c)(3) corporations and LLC's that serve as general partners of these projects.

Restrictions on Net Assets –

The following are restrictions put on the Authority's net assets as of June 30, 2007:

Required reserves:	
Farm Labor	$ 982,845
Portola Vista	656,156
Subtotal	1,639,001
HAP restricted funds – Voucher Program	1,802,812
Others	692,208
Total restrictions	$ 4,134,021

COMPARATIVE ANALYSIS (Continued)

Statements of Revenues, Expenses, and Changes in Net Assets – A comparative summary of the Authority's Statements of Revenues, Expenses, and Changes in Net Assets for the years ended June 30, which generally reflects its results of operations, is as follows:

	PRIMARY GOVERNMENT–ENTERPRISE FUND		COMPONENT UNITS	
	2007	2006 (RESTATED)	2007	2006 (RESTATED)
Revenues:				
Tenant rents	$ 4,570,902	$ 4,262,574	$ 2,074,853	$ 1,952,178
HUD PHA grants	31,573,934	30,988,886	–	–
Capital grants	1,024,104	1,419,466	37,579	–
Investment income	1,085,737	542,926	88,327	70,707
Other	3,194,703	7,586,848	1,870,918	1,548,960
Total revenues	41,449,380	44,800,700	4,071,677	3,571,845
Expenses:				
Administrative	6,587,406	6,112,159	1,726,473	1,441,980
Tenant services	167,023	155,737	4,372	340
Utilities	883,508	793,235	214,860	210,736
Maintenance	2,905,931	2,436,061	779,507	682,779
Protective services	24,911	47,583	1,854	1,290
General	711,210	752,154	612,404	210,420
Housing Assistance payments	28,127,097	27,905,393	13,035	31,977
Depreciation	1,769,922	1,607,184	361,695	385,905
Other	861,580	229,784	665,648	643,834
Total expenses	42,038,588	40,039,290	4,379,848	3,609,261
Changes in net assets before cumulative effect of changes in accounting principles	(589,208)	4,761,410	(308,171)	(37,416)
Cumulative effect on prior years of changing to a different method for investment in limited partnership	–	–	–	1,437
Changes in net assets before non–controlling interest	(589,208)	4,761,410	(308,171)	(35,979)
Non–controlling interests in changes in net assets	(832,456)	–	(265,839)	(142,277)
Changes in net assets	243,248	4,761,410	(42,332)	106,298
Net assets, beginning of year	64,704,969	59,977,482	1,630,211	1,523,913
Capital contributions by Limited Partners	5,160,731	–	–	–
Less: non–controlling interest	(5,159,825)	–	–	–
Net assets, end of year	$ 64,949,123	$ 64,738,892	$ 1,587,879	$ 1,630,211

Major Factors Affecting the Statements of Revenues, Expenses, and Changes in Net Assets –

Decrease in other revenue is the net effect of decrease in other government grants as described above and the gain from the sale of the Rippling River property in prior year.

Expenses increased approximately 5.0% overall over the prior year due to increasing payroll and related costs as well as increased maintenance and utilities expenses.

COMPARATIVE ANALYSIS (Continued)

Capital Assets and Debt Administration

Capital Assets –

As of June 30, 2007 the Authority had $88,851,586 invested in a variety of capital assets as reflected in the following schedule, which represents a net increase, including additions, deletions and depreciation and reclassifications of 54% or $31,067,740 from prior year.

The following schedule summarizes Capital Assets as of June 30:

	PRIMARY GOVERNMENT– ENTERPRISE FUND		COMPONENT UNITS	
	2007	2006	2007	2006
Housing Authority of the County of Monterey:				
Capital assets not being depreciated:				
Land	$ 9,308,378	$ 9,308,378	$ 2,509,413	$ 2,509,038
Construction in progress	2,967,840	3,730,712	331,546	297,432
Total capital assets not being depreciated	12,276,218	13,039,090	2,840,959	2,806,470
Capital assets being depreciated:				
Buildings	61,494,822	60,163,868	11,699,603	11,394,453
Equipment	2,862,275	2,471,349	152,058	152,058
Total capital assets being depreciated	64,357,097	62,635,217	11,851,661	11,546,511
Accumulated depreciation:				
Buildings	27,089,931	25,648,509	2,661,106	2,293,489
Equipment	2,354,471	2,172,930	128,423	156,645
Total accumulated depreciation	29,444,402	27,821,439	2,789,529	2,450,134
Total capital assets being depreciated, net –Housing Authority of the County of Monterey	34,912,695	34,813,778	9,062,132	9,096,377
Capital assets, net – Housing Authority of the County of Monterey	47,188,913	47,852,868	11,903,091	11,902,847
Benito FLC, LP:				
Capital assets not being depreciated – Construction in progress	12,365,999	–	–	–
Total capital assets not being depreciated	12,365,999	–	–	–
Rippling River Affordable Housing, LP:				
Capital assets not being depreciated:				
Land	5,126,325	5,126,325	–	–
Construction in progress	5,023,070	4,804,653	–	–
Total capital assets not being depreciated	10,149,395	9,930,978	–	–
Capital assets being depreciated:				
Buildings	8,993,065	–		
Equipment	6,094	–	–	–
Total capital assets being depreciated	8,999,159	–	–	–
Accumulated depreciation:				
Buildings	153,799	–	–	–
Equipment	–	–	–	–
Total accumulated depreciation	153,799	–	–	–
Total capital assets being depreciated, net – Rippling River Affordable Housing, LP	8,845,360	–	–	–
Capital assets, net – Rippling River Affordable Housing, LP	$ 18,994,755	$ 9,930,978	$ –	$ –

COMPARATIVE ANALYSIS (Continued)

Capital Assets (Continued) –

	PRIMARY GOVERNMENT– ENTERPRISE FUND		COMPONENT UNITS	
	2007	2006	2007	2006
Tynan Affordable Housing, LP:				
Capital assets not being depreciated – Construction in progress	$ 10,301,919	$ –	$ –	$ –
Total capital assets not being depreciated	10,301,919	–	–	–
Total capital assets being depreciated, net	10,301,919	–	–	–
Capital assets, net	$ 88,851,586	$ 57,783,846	$ 11,903,091	$ 11,902,847

This year's major additions are:

Capital Programs – modernization in progress on a variety of the Authority's Public Housing Buildings	$ 2,681,809
Miscellaneous equipment purchased and building renovations made	$ 390,926
Development activities relative to low income housing tax credit projects	$ 45,547,416

Debt Outstanding for Primary Government, Including Blended Component Units:

Long–term debt obligations at June 30, 2007 consist of the following:

Notes payable to U.S. Department of Agriculture Rural Development, secured by Farm Labor Center Properties located in Salinas, Castroville, and Chualar, California.	$ 2,000,815
Note payable to California Housing Finance Agency (CHFA), secured by Portola Vista Housing Project property in Monterey, California.	1,213,429
Notes payable to Department of Housing and Community Development, secured by Pueblo Del Mar property in Marina, California.	952,429
Note payable to California Housing Finance Agency (CHFA). The note is unsecured.	1,000,000
Note payable to the County of Monterey, secured by the Castroville Farm Labor Center property.	284,770
Note payable to the County of Monterey, secured by the Castroville Farm Labor Center property.	28,000
Note payable to California Housing Finance Agency (CHFA). The note is unsecured.	500,000
Note payable to California Housing Finance Agency (CHFA). The note is unsecured.	500,000
Total forward	$ 6,479,443

COMPARATIVE ANALYSIS (Continued)

Debt Outstanding for Primary Government, Including Blended Component Units (Continued):

Total forward	$ 6,479,443
Note payable to the City of Soledad. Secured by a leasehold deed of trust of Benito FLC, LP.	3,710,000
Note payable to the Soledad Redevelopment Agency. Secured by a leasehold deed of trust of Benito FLC, LP.	500,000
Note payable to Citicorp North America. Secured by a leasehold deed of trust of Benito FLC, LP.	4,769,489
Note payable to the Housing Authority of the County of Monterey. Secured by a deed of trust on the property of Rippling River Affordable Housing, LP.	8,070,000
Note payable to Citicorp North America, Inc. Secured by a deed of trust on the property of Rippling River Affordable Housing, LP.	9,649,358
Note payable to Alliant Tax Credit Partnership, 33–A, the investment limited partner. Secured by a deed of trust on the property of Rippling River Affordable Housing, LP.	483,449
Note payable to the County of Monterey. Secured by a deed of trust on the property of Rippling River Affordable Housing, LP.	346,625
Note payable to the City of Salinas. Secured by a leasehold deed of trust of Tynan Affordable Housing, LP.	2,600,000
Note payable to the Housing Authority of the County of Monterey. Secured by a leasehold deed of trust of Tynan Affordable Housing, LP.	1,000,000
Note payable to U.S. Bank. Secured by a leasehold deed of trust of Tynan Affordable Housing, LP.	4,447,475
Total	42,055,839
Less current portion	334,809
Less reported as other noncurrent liabilities	1,000,000
Total long–term debt	$ 40,721,030

Increase of $35,255,216 is a net result of the inclusion of blended component unit debt of $35,576,396 and principal payments of $321,180.

FACTORS AFFECTING FUTURE PERIODS

Significant factors affecting the Authority are as follows:

- Potential funding reductions and programmatic changes are anticipated for the Section 8 housing programs due to the federal budget deficit. The total extent of these reductions and regulatory changes is unknown at this time. However, the Housing Authority continues to closely monitor program utilization and has implemented a new software application in order to meet the continually changing requirements of managing and reporting the programs.
- The Housing Authority's Conventional Low Rent program received negligible Operating Fund Subsidy in fiscal year 2006. The Operating Fund Subsidy increased significantly in calendar year 2007, as the new formula recognized that the Housing Authority's sites have been under funded for subsidy for some time. It should be noted that due to the federal budget deficit, the subsidy was funded at approximately 76% of eligibility in 2007. The Housing Authority has implemented a new software application to facilitate the required program conversion to project based management. The Operating Fund Subsidy formula will change again in January 2008 from a program wide calculation to a project based calculation.
- The costs related to the development of new projects and the predevelopment process for potential new projects could result in significant uses of cash and cash equivalents until the projects are operational.
- The current development projects have resulted in the use of large funding instruments including bond issues and tax credits, and will also result in developer fee income and bond issuance fees for the Housing Authority and its affiliates. The timing on the receipt of these fees varies.
- The Housing Authority is determining how best to accommodate both the rapid growth of development projects coming on-line and the need to meet certain project specific thresholds for the limited partners.

BASIC FINANCIAL STATEMENTS

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
STATEMENT OF NET ASSETS
JUNE 30, 2007

	Primary Government – Enterprise Fund	Component Units
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 4,750,485	$ 85,065
Investments	4,500,000	–
Accounts receivable:		
Tenants – net	130,815	18,571
Government agencies	247,595	–
Other – net	1,312,391	24,442
Interest receivable	485,496	16,805
Prepaid expenses	349,854	442,977
Inventories	10,769	–
Notes receivable	2,000,000	–
Due from other funds	5,253,553	–
Total current assets	19,940,958	587,860
CAPITAL ASSETS, net of depreciation	88,851,586	11,903,091
NONCURRENT ASSETS:		
Cash and cash equivalents	5,249,094	2,379,239
Notes receivable	11,370,632	1,000
Other assets	3,909,506	–
Total noncurrent assets	20,529,232	2,380,239
TOTAL ASSETS	128,421,776	14,871,190
LIABILITIES		
CURRENT LIABILITIES:		
Accounts payable:		
Trade	2,825,488	59,673
Government agencies	190,043	–
Accrued liabilities:		
Salaries	376,765	–
Compensated absences	424,543	24,209
Related parties	650,044	682,974
Other	1,768,627	570,000
Interest payable	1,064,617	381,694
Prepaid rents	31,547	3,860
Deferred revenue	491,089	–
Line of credit	2,610,000	–
Current portion of long–term debt	334,809	–
Due to other funds	5,253,553	–
Total current liabilities	16,021,125	1,722,410
NONCURRENT LIABILITIES:		
Tenant security deposits	403,128	147,799
Other noncurrent liabilities	2,000,000	–
Long–term debt	40,721,030	11,860,464
Total noncurrent liabilities	43,124,158	12,008,263
TOTAL LIABILITIES	59,145,283	13,730,673
NON–CONTROLLING INTERESTS IN PARTNERSHIPS	4,327,370	(447,362)
NET ASSETS		
Invested in capital assets, net of related debt	39,100,317	42,627
Restricted	4,134,021	–
Unrestricted	21,714,785	1,545,252
TOTAL NET ASSETS	$ 64,949,123	$ 1,587,879

See Notes to Basic Financial Statements.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
STATEMENT OF REVENUES, EXPENSES, AND
CHANGES IN NET ASSETS
FOR THE YEAR ENDED JUNE 30, 2007

	Primary Government – Enterprise Fund	Component Units
REVENUES:		
HUD PHA grants	$ 31,573,934	$ –
Rents	4,570,902	2,074,853
Other government grants	961,958	37,579
Management fees	299,588	–
Other	1,905,095	1,870,918
Total revenues	39,311,477	3,983,350
EXPENSES:		
Administration	6,587,406	1,726,473
Tenant services	167,023	4,372
Utilities	883,508	214,860
Maintenance	2,905,931	779,507
Protective services	24,911	1,854
General	711,210	612,404
Total operating expenses before housing assistance payments	11,279,989	3,339,470
Housing assistance payments	28,127,097	13,035
Total operating expenses	39,407,086	3,352,505
OPERATING INCOME (LOSS) BEFORE DEPRECIATION	(95,609)	630,845
DEPRECIATION EXPENSE	1,769,922	361,695
OPERATING INCOME (LOSS)	(1,865,531)	269,150
NONOPERATING INCOME (EXPENSE):		
Interest income	1,085,737	88,327
Fraud recovery	28,062	–
Interest expense	(696,188)	(648,953)
Extraordinary maintenance	(158,254)	(17,011)
Casualty loss	(7,138)	316
Total nonoperating income (expense)	$ 252,219	$ (577,321)

	Primary Government – Enterprise Fund	Component Units
INCOME (LOSS) BEFORE CAPITAL GRANTS	$ (1,613,312)	$ (308,171)
CAPITAL GRANTS	1,024,104	–
CHANGES IN NET ASSETS BEFORE CUMULATIVE EFFECT OF CHANGES IN ACCOUNTING PRINCIPLE	(589,208)	(308,171)
CUMULATIVE EFFECT ON PRIOR YEARS OF CHANGING TO A DIFFERENT METHOD FOR INVESTMENT IN LIMITED PARTNERSHIP	–	(16,047)
CHANGES IN NET ASSETS BEFORE NON–CONTROLLING INTERESTS	(589,208)	(324,218)
LESS: NON–CONTROLLING INTERESTS IN LIMITED PARTNERSHIPS	(832,456)	(265,839)
CHANGES IN NET ASSETS	243,248	(58,379)
NET ASSETS BEGINNING OF YEAR, AS REPORTED	63,350,895	1,646,258
PRIOR PERIOD ADJUSTMENT	1,354,074	–
NET ASSETS, BEGINNING OF YEAR, AS RESTATED	64,704,969	1,646,258
CAPITAL CONTRIBUTIONS	5,160,731	–
LESS NON–CONTROLLING INTEREST	(5,159,825)	–
NET CAPITAL CONTRIBUTIONS	906	–
NET ASSETS, END OF YEAR	$ 64,949,123	$ 1,587,879

See Notes to Basic Financial Statements.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED JUNE 30, 2007

	Primary Government – Enterprise Fund
CASH FLOWS FROM OPERATING ACTIVITIES:	
Cash received from:	
Tenants	$ 4,603,552
HUD	31,602,056
Other agencies	997,851
Other operating receipts	1,161,416
Cash paid to suppliers and employees	(9,835,057)
Cash payments for housing assistance	(28,127,097)
NET CASH PROVIDED BY OPERATING ACTIVITIES	402,721
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:	
Grants received for capital additions	1,024,104
Capital contributions by limited partners	5,160,731
Interest paid on debt	(150,145)
Repayments on line of credit	(190,000)
Principal payments on long–term debt	(321,180)
Cash payments for the acquisition of fixed assets	(2,849,243)
NET CASH PROVIDED BY CAPITAL AND RELATED FINANCING ACTIVITIES	2,674,267
CASH FLOWS FROM INVESTING ACTIVITIES:	
Interest income received	1,195,730
Advances on notes receivable	(475,525)
NET CASH PROVIDED BY INVESTING ACTIVITIES	720,205
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:	
Cash paid for extraordinary maintenance	(157,928)
Fraud recovery receipts	28,062
Casualty loss	(7,139)
NET CASH USED BY NONCAPITAL FINANCING ACTIVITIES	(137,005)
NET INCREASE IN CASH AND CASH EQUIVALENTS	3,660,188
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	6,339,391
CASH AND CASH EQUIVALENTS, END OF YEAR	$ 9,999,579
CASH AND CASH EQUIVALENTS:	
Unrestricted	$ 4,750,485
Restricted	5,249,094
Total	$ 9,999,579

	Primary Government – Enterprise Fund
RECONCILIATION OF OPERATING LOSS TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:	
Operating loss	$ (1,865,531)
Adjustments to reconcile operating income to net cash provided by operating activities:	
Depreciation and amortization	1,769,922
(Increase) decrease in:	
Accounts receivable:	
Tenants	21,975
Government agencies	270,529
Other	(207,747)
Prepaid expenses and other assets	(51,323)
Inventories	26,957
Due from other funds	1,098,893
Receivable from related parties	(791,398)
Other assets	(1,932,185)
Increase (decrease) in:	
Accounts payable:	
Trade	1,718,881
Government agencies	(9,503)
Accrued liabilities:	
Salaries	98,712
Compensated absences	11,305
Related parties	649,507
Other	648,566
Prepaid rents	(5,613)
Deferred revenue	329,626
Due to other funds	(1,407,328)
Tenant security deposits	28,476
Total adjustments	2,268,252
NET CASH PROVIDED BY OPERATING ACTIVITIES	$ 402,721

See Notes to Basic Financial Statements.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
COMBINING STATEMENT OF NET ASSETS – ENTERPRISE FUNDS
JUNE 30, 2007

	Major Funds				
ASSETS	Operating Fund	Housing Choice Voucher Program	Conventional Public Housing	Non–Major Funds	Total
CURRENT ASSETS:					
Cash and cash equivalents	$ 861,359	$ 224,036	$ –	$ 3,665,090	$ 4,750,485
Investments	4,500,000	–	–	–	4,500,000
Accounts receivable:					
Tenants – net	–	–	80,214	50,601	130,815
Government agencies	–	–	95,245	152,350	247,595
Others – net	276,546	1,217	15,841	1,018,787	1,312,391
Interest receivable	374,541	–	–	110,955	485,496
Prepaid expenses	216,895	–	37,190	95,769	349,854
Inventories	–	–	10,769	–	10,769
Notes receivable	–	–	–	2,000,000	2,000,000
Due from other funds	2,888,854	–	59,502	2,305,197	5,253,533
Total current assets	9,118,195	225,253	298,761	9,398,749	19,040,958
CAPITAL ASSETS, net of depreciation	3,694,020	60,467	29,912,220	55,184,879	88,851,586
NONCURRENT ASSETS:					
Cash and cash equivalents	238,744	2,208,836	208,408	2,593,106	5,249,094
Notes receivable	10,765,107	–	–	605,525	11,370,632
Other assets	791,398	–	–	3,118,108	3,909,506
Total noncurrent assets	11,795,249	2,208,836	208,408	6,316,739	20,529,232
TOTAL ASSETS	24,607,464	2,494,556	30,419,389	70,900,367	128,421,776
LIABILITIES					
CURRENT LIABILITIES:					
Accounts payable:					
Trade	94,399	39,194	76,028	2,615,867	2,825,488
Government agencies	–	–	45,937	144,106	190,043
Accrued liabilities:					
Salaries	376,765	–	–	–	376,765
Compensated absences	177,966	120,559	90,121	35,897	424,543
Related parties	–	–	–	650,044	650,044
Other	–	406,024	–	1,362,603	1,768,627
Interest payable	–	–	–	1,064,617	1,064,617
Prepaid rents	–	–	20,357	11,190	31,547
Deferred revenue	10,215	–	10,769	470,105	491,089
Line of credit	–	–	–	2,610,000	2,610,000
Current portion of long–term debt	–	–	–	334,809	334,809
Due to other funds	485,926	171,965	39,561	4,556,101	5,253,553
Total current liabilities	1,145,271	737,742	282,773	13,855,339	16,021,125
NONCURRENT LIABILITIES:					
Tenant security deposits	–	–	227,152	175,976	403,128
Other noncurrent liabilities	–	–	–	2,000,000	2,000,000
Long–term debt	–	–	–	40,721,030	40,721,030
Total noncurrent liabilities	–	–	227,152	42,897,006	43,124,158
TOTAL LIABILITIES	1,145,271	737,742	509,925	56,752,345	59,145,283
NON–CONTROLLING INTERESTS IN LIMITED PARTNERSHIPS	–	–	–	4,327,370	4,327,370
NET ASSETS					
Invested in capital assets, net of related debt	3,694,020	60,467	29,912,220	5,433,610	39,100,317
Restricted	–	1,802,812	–	2,331,209	4,134,021
Unrestricted	19,768,173	(106,465)	(2,756)	2,055,833	21,714,785
TOTAL NET ASSETS	$ 23,462,193	$ 1,756,814	$ 29,909,464	$ 9,820,652	$ 64,949,123

See Notes to Basic Financial Statements.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
COMBINING STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS – ENTERPRISE FUNDS
FOR THE YEAR ENDED JUNE 30, 2007

	Major Funds				
	Operating Fund	Housing Choice Voucher Program	Conventional Public Housing	Non–Major Funds	Total
REVENUES:					
HUD PHA grants	$ 95,640	$ 29,273,386	$ 203,228	$ 2,001,680	$ 31,573,934
Rents	–	–	2,661,495	1,909,407	4,570,902
Other government grants	–	–	–	961,958	961,958
Management fees	299,588	–	–	–	299,588
Other	278,501	76,614	199,293	1,350,687	1,905,095
Total revenues	673,729	29,350,000	3,064,016	6,223,732	39,311,477
EXPENSES:					
Administration	993,185	2,557,736	1,238,989	1,797,496	6,587,406
Tenant services	–	2,743	9,122	155,158	167,023
Utilities	63,667	–	370,007	449,834	883,508
Maintenance	124,260	18,580	1,368,691	1,394,400	2,905,931
Protective services	9,514	92	6,175	9,130	24,911
General	59,343	45,579	325,808	280,480	711,210
Total operating expenses before housing assistance payments	1,249,969	2,624,730	3,318,792	4,086,498	11,279,989
Housing assistance payments	–	26,583,865	–	1,543,232	28,127,097
Total operating expenses	1,249,969	29,208,595	3,318,792	5,629,730	39,407,086
OPERATING INCOME (LOSS) BEFORE DEPRECIATION	(576,240)	141,405	(254,776)	594,002	(95,609)
DEPRECIATION EXPENSE	232,900	15,117	957,004	564,901	1,769,922
OPERATING INCOME (LOSS)	(809,140)	126,288	(1,211,780)	29,101	(1,865,531)
NONOPERATING INCOME (EXPENSE):					
Interest income	894,335	56,078	2,967	132,357	1,085,737
Fraud recovery	–	28,062	–	–	28,062
Interest expense	–	–	–	(696,188)	(696,188)
Extraordinary maintenance	–	–	(326)	(157,928)	(158,254)
Casualty loss	(1,091)	–	(6,042)	(5)	(7,138)
Total nonoperating income (expense)	$ 893,244	$ 84,140	$ (3,401)	$ (721,764)	$ 252,219

	Major Funds				
	Operating Fund	Housing Choice Voucher Program	Conventional Public Housing	Non–Major Funds	Total
INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS	$ 84,104	$ 210,428	$ (1,215,181)	$ (692,663)	$ (1,613,312)
CAPITAL CONTRIBUTIONS	–	–	1,024,104	–	1,024,104
CHANGES IN NET ASSETS BEFORE TRANSFERS	84,104	210,428	(191,077)	(692,663)	(589,208)
TRANSFERS	32,974	–	(32,974)	–	–
CHANGES IN NET ASSETS BEFORE NON–CONTROLLING INTERESTS	117,078	210,428	(224,051)	(692,663)	(589,208)
LESS: NON–CONTROLLING INTERESTS IN CHANGES IN NET ASSETS	–	–	–	(832,456)	(832,456)
CHANGES IN NET ASSETS	117,078	210,428	(224,051)	139,793	243,248
NET ASSETS, BEGINNING OF YEAR, AS REPORTED	23,357,898	(120,045)	30,133,515	9,979,527	63,350,895
PRIOR PERIOD ADJUSTMENT	(12,783)	1,666,431	–	(299,574)	1,354,074
NET ASSETS, BEGINNING OF YEAR, AS RESTATED	23,345,115	1,546,386	30,133,515	9,679,953	64,704,969
CAPITAL CONTRIBUTIONS	–	–	–	5,160,731	5,160,731
LESS NON–CONTROLLING INTEREST	–	–	–	(5,159,825)	(5,159,825)
NET CAPITAL CONTRIBUTIONS	–	–	–	906	906
NET ASSETS, END OF YEAR	$ 23,462,193	$ 1,756,814	$ 29,909,464	$ 9,820,652	$ 64,949,123

See Notes to Basic Financial Statements.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
COMBINING STATEMENT OF CASH FLOWS – ENTERPRISE FUNDS
FOR THE YEAR ENDED JUNE 30, 2007

	Major Funds				
	Operating Fund	Housing Choice Voucher Program	Conventional Public Housing	Non–Major Funds	Total
CASH FLOWS FROM OPERATING ACTIVITIES:					
Cash received from:					
Tenants	$ –	$ –	$ 2,715,352	$ 1,888,200	$ 4,603,552
HUD	95,640	29,273,386	203,228	2,029,802	31,602,056
Other agencies	–	–	242,407	755,444	997,851
Other operating receipts	429,078	75,971	134,407	521,960	1,161,416
Cash paid to suppliers and employees	(1,097,879)	(2,925,807)	(3,407,092)	(2,404,279)	(9,835,057)
Cash payments for housing assistance	–	(26,583,865)	–	(1,543,232)	(28,127,097)
NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES	(573,161)	(160,315)	(111,698)	1,247,895	402,721
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:					
Capital grants received	–	–	1,024,104	–	1,024,104
Capital contributions	–	–	–	5,160,731	5,160,731
Interest paid on debt	–	–	(326)	(149,819)	(150,145)
Repayments on line of credit	–	–	–	(190,000)	(190,000)
Principal payments on long–term debt	–	–	–	(321,180)	(321,180)
Cash payments for the acquisition of fixed assets	(158,244)	–	(890,055)	(1,800,944)	(2,849,243)
NET CASH PROVIDED (USED) BY CAPITAL AND RELATED FINANCING ACTIVITIES	(158,244)	–	133,723	2,698,788	2,674,267
CASH FLOWS FROM INVESTING ACTIVITIES:					
Interest income received	1,029,433	56,078	2,967	107,252	1,195,730
Advances on notes receivable	(170,000)	–	–	(305,525)	(475,525)
NET CASH PROVIDED BY INVESTING ACTIVITIES	859,433	56,078	2,967	(198,273)	720,205
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:					
Cash paid for extraordinary maintenance	–	–	–	(157,928)	(157,928)
Fraud recovery receipts	–	28,062	–	–	28,062
Casualty loss	(1,091)	–	(6,043)	(5)	(7,139)
Transfers	32,974	–	(32,974)	–	–
NET CASH PROVIDED (USED) BY NONCAPITAL FINANCING ACTIVITIES	31,883	28,062	(39,017)	(157,933)	(137,005)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	159,911	(76,175)	(14,025)	3,590,477	3,660,188
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	940,192	2,509,047	222,433	2,667,719	6,339,391
CASH AND CASH EQUIVALENTS, END OF YEAR	$ 1,100,103	$ 2,432,872	$ 208,408	$ 6,258,196	$ 9,999,579
CASH AND CASH EQUIVALENTS:					
Unrestricted	$ 861,359	$ 224,036	$ –	$ 3,665,090	$ 4,750,485
Restricted	238,744	2,208,836	208,408	2,593,106	5,249,094
Total	$ 1,100,103	$ 2,432,872	$ 208,408	$ 6,258,196	$ 9,999,579

	Major Funds				
	Operating Fund	Housing Choice Voucher Program	Conventional Public Housing	Non–Major Funds	Total
RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:					
Operating income (loss)	$ (809,140)	$ 126,288	$ (1,211,780)	$ 29,101	$ (1,865,531)
Adjustments to reconcile operating income (loss) to net cash provided by operating activities:					
Depreciation and amortization	232,900	15,117	957,004	564,901	1,769,922
(Increase) decrease in:					
Accounts receivable:					
Tenants	–	–	43,373	(21,398)	21,975
Government agencies	–	–	242,407	28,122	270,529
Other	(590)	(643)	–	(206,514)	(207,747)
Prepaid expenses and other assets	(68,972)	–	7,349	10,300	(51,323)
Inventories	25,558	–	1,399	–	26,957
Due from other funds	2,807,458	–	206,776	(1,915,341)	1,098,893
Receivable from related parties	(791,398)	–	–	–	(791,398)
Other assets	100	–	–	(1,932,285)	(1,932,185)
Increase (decrease) in:					
Accounts payable:					
Trade	(39,585)	(326)	(280)	1,759,072	1,718,881
Government agencies	–	–	45,937	(55,440)	(9,503)
Accrued liabilities:					
Salaries	98,712	–	–	–	98,712
Compensated absences	124,189	(52,185)	(28,986)	(31,713)	11,305
Related parties	(537)	–	–	650,044	649,507
Other	–	(44,202)	(113,719)	806,487	648,566
Prepaid rents	–	–	(5,507)	(106)	(5,613)
Deferred revenue	10,215	–	(1,374)	320,785	329,626
Due to other funds	(2,162,071)	(204,364)	(270,288)	1,229,395	(1,407,328)
Tenant security deposits	–	–	15,991	12,485	28,476
Total adjustments	235,979	(286,603)	1,100,082	1,218,794	2,268,252
NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES	$ (573,161)	$ (160,315)	$ (111,698)	$ 1,247,895	$ 402,721

See Notes to Basic Financial Statements

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reporting Entity – The Authority was established on March 17, 1941, by a resolution of the Monterey County Board of Supervisors. The Authority is governed by a seven member Board of Commissioners. Commissioners are appointed for terms of four years by the Monterey County Board of Supervisors, except for Tenant Commissioners which are appointed for terms of two years by the Board of Commissioners.

The Authority provides housing to low income tenants in Monterey County and is subject to regulation by the United States Department of Housing and Urban Development (HUD), the U.S. Department of Agriculture, the California Housing Finance Agency, the California Department of Economic Opportunity, and the California Department of Housing and Community Development as to rental charges and operating methods. Substantially all of the Housing Authority's revenues are received directly from HUD and passed through various state agencies.

Accounting Changes – In accordance with Accounting Research Bulletin No. 51, "Consolidated Financial Statements (ARB 51) and Emerging Issues Task Force (EITF) No. 04–05, "Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights," the Housing Authority of the County of Monterey changed its accounting method for its component units' investment in various limited partnerships, from the purchase method to consolidation method.

The Authority's financial reporting entity is comprised of the following:

Primary Government	Housing Authority of the County of Monterey
Discretely Presented Component Units	Monterey County Housing, Inc. and Affiliate Housing Authority of the County of Monterey Health and Welfare Trust
Blended Component Units	Tynan Village, Inc. Monterey County Housing Authority Development Corporation Housing Authority, LLC Rippling River, LLC Soledad Affordable Housing, LLC Salinas New Markets Development Company, LLC

In determining the financial reporting entity, the Authority complies with the provisions of Government Accounting Standards Board (GASB) Statement No. 14, "The Financial Reporting Entity" and Statement No. 39, "Determining Whether Certain Organizations Are Component Units."

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Discretely Presented Component Units –

The entities listed below are legally separate, tax-exempt organizations that the nature and significance of their relationship with the Authority met the criteria for inclusion in the Authority's financial statements:

Component Units	Brief Description/Inclusion Criteria	Reporting
Monterey County Housing, Inc. and Affiliate	Consist of three entities, Monterey County Housing, Inc., MCHI Affordable and Acquisitions, Inc. and Plaza Hotel Associates, a limited partnership. Two of the seven Board of Directors of Monterey County Housing, Inc. and Affiliate are appointed by the Authority's Board of commissioners. The Authority provides accounting and property management services to all three entities.	Discretely Presented Component Units
Housing Authority of the County of Monterey Health and Welfare Trust	Established to provide medical and Dental expense benefits coverage to eligible employees of the Authority. The Authority has provided loans to the Trust to fund shortage over the years.	Discretely Presented Component Units

Blended Component Units –

The entities listed below, even though legally separate, are so interrelated with the Authority that they are in substance part of the Authority, and are reported as such by "blending" the component unit's balances and transactions with those of the Authority itself. Component units that are blended into the reporting activities of the Authority are as follows:

Component Units	Brief Description/Inclusion Criteria	Reporting
Tynan Village, Inc.	Created February 11, 2005, to acquire, rehabilitate, develop, own and operate affordable housing and to provide related services to low, very-low and moderate-income households. The Corporation is general partner of Tynan Affordable Housing, LP. The Board of Directors of the Corporation also serve as the Board of Commissioners of the Authority. The Authority holds resources of the Corporation and provides accounting and property management services to the Corporation and the Limited Partnership.	Other Non-Major Enterprise Fund

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Blended Component Units (Continued) –

Component Units	Brief Description/Inclusion Criteria	Reporting
Monterey County Housing Authority Development Corporation	Created February 11, 2005, to acquire, rehabilitate, develop, own and operate affordable housing and to provide related services to low, very-low and moderate-income households. The Corporation is general partner of Benito FLC, LP and Benito Street Affordable Housing, LP. The Board of Directors of the Corporation also serve as the Board of Commissioners of the Authority. The Authority holds resources of the Corporation and provides accounting and property management services to the Corporation and the Limited Partnerships.	Other Non-Major Enterprise Fund
Housing Authority, LLC	Created February 11, 2005, to acquire, rehabilitate, develop, own and operate affordable housing and to provide related services to low, very-low and moderate-income households. The LLC is general partner of Monterey Affordable Housing, LP and Fanoe Vista, LP. The Board of Directors of the Corporation also serve as the Board of Commissioners of the Authority. The Authority holds resources of the Corporation and provides accounting and property management services to the Corporation and the Limited Partnerships.	Other Non-Major Enterprise Fund
Rippling River Affordable Housing, LLC	Created January 11, 2006, to acquire, rehabilitate, develop, own and operate affordable housing and to provide related services to low, very-low and moderate-income households. The LLC is general partner of Rippling River Affordable Housing, LP. The Board of Directors of the Corporation also serve as the Board of Commissioners of the Authority. The Authority holds resources of the LLC and provides accounting and property management services to the Corporation and the Limited Partnership.	Other Non-Major Enterprise Fund

NOTE 1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Blended Component Units (Continued) –

Component Units	Brief Description/Inclusion Criteria	Reporting
Soledad Affordable Housing, LLC	Created February 15, 2006, to acquire, rehabilitate, develop, own and operate affordable housing and to provide related services to low, very-low and moderate-income households. The Board of Directors of the Corporation also serve as the Board of Commissioners of the Authority. The Authority will hold Resources of the Corporation and will provide accounting services to the LLC.	Other Non-Major Enterprise Fund
Salinas New Markets Development Company, LLC	Created April 20, 2005, to acquire, rehabilitate, develop, own and operate affordable housing and to provide related services to low, very-low and moderate-income households. The Board of Directors of the Corporation also serve as the Board of Commissioners of the Authority. The Authority will hold Resources of the Corporation and will provide accounting services to the LLC.	Other Non-Major Enterprise Fund

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Basis of Accounting and Financial Statement Presentation – In accordance with generally accepted accounting principles (GAAP) applicable to governmental units, the accounts of the Authority are organized into one proprietary type fund, the Enterprise Fund. Enterprise Funds are used to account for operations that are financed and operated in a manner similar to private business enterprises – where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges.

Enterprise funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with an enterprise fund's principal ongoing operations. The principal operating revenues of the Authority's enterprise funds are rent charges to tenants and the rental subsidy from HUD. Operating expenses for enterprise funds include the cost of operating the Project buildings, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

The Authority has adopted Governmental Accounting Standards Board (GASB) Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities that Use Proprietary Fund Accounting*. Accordingly, the Authority has elected to apply all applicable GASB pronouncements as well as Financial Accounting Standards Board (FASB) pronouncements and Accounting Principles Board (APB) opinions issued on or after November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements.

In June 1999, the Governmental Accounting Standards Board (GASB) unanimously approved Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*. This statement provided for the most significant change in financial reporting in over twenty years and called for a phased implementation based on size of government starting with the year ending June 30, 2002. The Authority implemented the basic model for the year ending June 30, 2004.

The financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Cash and Cash Equivalents – Demand deposits, cash on hand, certificates of deposits with a maturity of three months or less and investments held in the Local Agencies Investment Fund (LAIF) are considered cash and cash equivalents.

Receivables – Receivables are accounted for using the allowance method and are presented net of this allowance. The allowance was $71,575 at June 30, 2007.

Inventories – Inventories are valued on an average cost basis. Inventories consist of expendable maintenance supplies held for consumption. The consumption method is used to account for inventories. Under the consumption method, inventories are recorded as assets when purchased and expensed when used.

Capital Assets – Fixed assets are carried at cost, except for donated items, which are carried at the fair market value at the date of donation. Some of the land values were determined using ratios of land to structure obtained from tax assessor information for the values of the parcels prior to the purchase or donation. Major improvements and rehabilitation are capitalized while maintenance and repairs which do not improve or extend the life of the respective assets are charged to expense as incurred.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Depreciation – Depreciation expense is computed on the straight-line basis over the estimated useful lives of the assets as follows:

Land	N/A
Buildings	40 Years
Equipment	5 – 7 Years

Accrued Compensated Absences – The Authority has accrued a liability for vacation and sick pay which has been earned, but not taken by Authority employees.

Income Taxes – The Authority is exempt from Federal Income and California Franchise taxes.

Use of Estimates – The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported. Actual results could differ from those estimates.

Net Assets – Net assets represent the difference between assets and liabilities and are classified into the following net asset categories:

Invested in Capital Assets, Net of Related Debt – Invested in capital assets, net of related debt consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowings used for the acquisition, construction or improvement of those assets. Net assets invested in capital assets, net of related debt excludes unspent debt proceeds.

Restricted – Restricted net assets are reported as restricted when there are limitations imposed on their use either through external restrictions imposed by creditors, grantors or laws or regulations of other governments. Restricted resources are used first when an expense is incurred for purposes for which both restricted and unrestricted net assets are available.

Unrestricted – Unrestricted net assets consists of net assets that do not meet the definition of "invested in capital assets, net of related debt" or "restricted."

NOTE 2. DEPOSITS AND INVESTMENTS

Cash and Cash Equivalents – Balances in cash and cash equivalents consist of bank accounts insured by the Federal Depository Insurance Corporation (FDIC) and unsecured and uncollateralized deposits in the California State Treasurer's Investment Pool, known as the Local Agencies Investment Fund (LAIF). As of June 30, 2007, none of the bank balances were insured by the Federal Depository Insurance Corporation (FDIC). The uninsured amount is, however, collateralized at a rate of 110% by securities which are held for the benefit of the Authority. Money in LAIF is invested by the State Treasurer to realize the maximum return consistent with prudent treasury management. All earnings of the fund, less a reimbursement of management costs incurred not to exceed one quarter of 1% of earnings, are distributed to the contributing agencies in their relative shares each quarter. The balances of funds in LAIF approximated fair market value as of June 30, 2007 based on the estimates provided by LAIF.

NOTE 2. DEPOSITS AND INVESTMENTS (Continued)

Restricted Cash and Cash Equivalents – Restricted cash and cash equivalents consists of funds that are reserved for specific projects or purposes. At June 30, 2007 restricted cash and cash equivalents consisted of the following:

Housing Authority of the County of Monterey:

Funds held by the California Housing Finance Agency (CHFA) for the Portola Vista Housing Project:		
Insurance reserve	$	47,066
Replacement reserve		607,014
Reserve funds for operations		2,076
Replacement reserve funded for the USDA Rural Development Projects		982,845
Security deposits		404,028
FSS escrow account		406,024
HAP restricted funds – Voucher Program		1,802,812
HUD payable for other Section 8 Programs		118,297
Others		878,932
Total	$	5,249,094

Custodial Credit Risk Related to Deposits – Custodial credit risk is the risk that, in the event of a bank failure, the authority's deposits might not be recovered. The Authority does not have a deposit policy for custodial credit risk. As of June 30, 2007, $11,591,780 of the Authority's bank balances (including a certificate of deposit of $4,500,000) of $10,608,935 were exposed to custodial credit risk as follows:

Uninsured and uncollateralized (including bank balances that are collateralized with securities held by the pledging financial institution's agent but not in the name of the Authority).	$	10,608,935

The carrying amount of the Authority's deposits with financial institutions was $10,461,808 as of June 30, 2007.

Custodial Credit Risk Related to Investments – The custodial credit risk for investment is the risk that a government will not be able to recover the value of investment or collateral securities that are in the possession of an outside party if the counterparty to the transaction fails. The Authority does not have an investment policy for custodial credit risk. As of June 30, 2007, none of the Authority's investments (including those in LAIF) meet the definition of investments that are subject to the above categorization.

NOTE 3. ACCOUNTS RECEIVABLE – OTHER

Accounts receivable – other at June 30, 2007 consists of the following:

Receivable from Monterey County Housing, Inc. and Affiliates	$	275,290
Receivable from Housing Authority of the City of Soledad		963,775
Other miscellaneous receivable		73,326
Total	$	1,312,391

NOTE 4. DUE FROM/TO OTHER FUNDS

The Authority's operations consist of various programs at different locations, but all fiscal activities are conducted at a central location using the Authority's revolving account. Due from/to programs resulted from this arrangement and are properly eliminated for the purpose of combining all programs in one enterprise fund.

Account balances at June 30, 2007 are as follows:

Due from programs	$ 5,253,553
Due to programs	$ 5,253,553

NOTE 5. NOTES RECEIVABLE

Notes receivable at June 30, 2007 consists of the following:

Note receivable from Rippling River Affordable Housing Limited Partnership. The loan is due in annual installments of principal and interest at 5% and is due May 2061. The note is secured by a deed of trust.	$ 8,070,000
Note receivable from Carmel Senior Housing, Inc. The loan is unsecured and non interest–bearing. Annual installment payment of $16,667 due from May 1, 1991 to May 1, 2008. No payment has been received on the note.	300,000
Note receivable from Plaza Hotel Associates. The note bears interest at 6.75% per annum. The original note balance plus accrued interest is due in full on March 27, 2024. Secured by the property of Plaza Hotel Associates	577,494
Notes receivable from MCHI Affordable Acquisitions, Inc. for two notes it assumed when it purchased Casanova Plaza and Parkside Manor from the Authority. The notes are due in year 2040 plus interest accrued at 5% per annum.	1,767,613
Note receivable from Housing Authority of the County of Monterey Welfare Trust, due on demand or due no later than September 16, 2006, non interest–bearing.	60,000
Note receivable from Housing Authority of the County of Monterey Welfare Trust, due on demand or due no later than April 29, 2007, non interest–bearing.	60,000
Note receivable from Housing Authority of the County of Monterey Welfare Trust, due on demand or no later than February 11, 2008, non interest–bearing.	60,000
Note receivable from the State of California Housing Finance Agency, HELP program, due in full plus accrued interest at 3% per annum on June 1, 2008.	1,000,000
Total forward	$ 11,895,107

NOTE 5. NOTES RECEIVABLE (Continued)

Total forward	$ 11,895,107
Note receivable from the State of California Housing Finance Agency, HELP program, due in full plus accrued interest at 3% per annum on June 1, 2008.	500,000
Note receivable from Housing Authority of the County of Monterey Welfare Trust, due on demand or no later than June 18, 2010, non interest–bearing.	100,000
Note receivable from Housing Authority of the County of Monterey Welfare Trust, due on demand or no later than August 7, 2009, non interest–bearing.	70,000
Note receivable from the State of California Housing Finance Agency, HELP program, due in full plus accrued interest at 3% per annum on June 1, 2008.	500,000
Note receivable from Monterey County Housing, Inc. due in full plus accrued interest at 3% per annum on January 19, 2037.	305,525
Total	13,370,632
Less – current	2,000,000
Total noncurrent	$ 11,370,632

Notes Receivable From the Component Units – The above amount includes notes receivable from the component units of $1,767,613.

NOTE 6. TRANSACTIONS WITH COMPONENT UNITS

The Board of Commissioners of the Authority appoints members of the Board of Directors of Monterey County Housing, Inc. (MCHI) and MCHI Affordable Acquisitions, Inc. (MCHIAA). MCHI is a general partner of Plaza Hotel Associates (PHA), a California limited partnership. MCHIAA owns Casanova Plaza and Parkside Manor for which the Authority acts as the managing agent. The Authority also acts as the managing agent for Benito FLC, LP, Tynan Village, LP and Rippling River Affordable Housing, LP (Rippling River). The Authority manages the operations of these entities for fees. The entities also reimburse the Authority for certain maintenance, office services, and payroll costs paid on behalf of the entities. Transactions between the Authority and the entities are as follows:

	MCHI	MCHIAA	PHA	Benito FLC	Tynan Village	Rippling River	Total
Management fees	$ 32,400	$ 97,265	$ 9,000	$ –	$ –	$ 26,680	$ 165,345
Expenses paid on their behalf	$ 454,186	$ 1,139,383	$ 235,408	$ 10,182,229	$ 8,846,934	$ 9,607,245	$ 30,465,383
Other advances	$ 88,042	$ 416,220	$ 269	$ 10,000	$ 3,173,406	$ 58,294	$ 3,746,231
Reimbursements received	$ (368,189)	$ (750,918)	$ (59,603)	$ (8,979,991	$ (8,061,070)	$ (9,695,217)	$ (27,914,988)
Section 8 assistance payments	$ (212,436)	$ (983,702)	$ (4,993)	$ –	$ –	$ (221,248)	$ (1,422,379)
Interest paid to HACM	$ –	$ 106,057	$ –	$ –	$ –	$ –	$ 106,057
Equity transfers or contributions	$ –	$ –	$ –	$ (1,163,869)	$ (3,985,844)	$ –	$ (5,149,713)

The Authority also holds various promissory notes issued by these entities secured by deeds of trust on their properties.

NOTE 7. CAPITAL ASSETS

The following is a summary of the changes in capital assets for the year ended June 30, 2007:

	BALANCE AS OF JUNE 30,2006	ADDITIONS TRANSFERS	DELETIONS TRANSFERS	BALANCE AS OF JUNE 30,2007
Housing Authority of the County of Monterey:				
Capital assets not being depreciated:				
Land	$ 9,308,378	$ –	$ –	$ 9,308,378
Construction in progress	3,730,712	1,349,273	(2,112,145)	2,967,840
Total capital assets not being depreciated	13,039,090	1,349,273	(2,112,145)	12,276,218
Capital assets being depreciated:				
Buildings	60,163,868	1,332,536	(1,582)	61,494,822
Equipment	2,471,349	390,926	–	2,862,275
Total capital assets being depreciated	62,635,217	1,723,462	(1,582)	64,357,097
Accumulated depreciation:				
Buildings	25,648,509	1,441,422	–	27,089,931
Equipment	2,172,930	181,541	–	2,354,471
Total accumulated depreciation	27,821,439	1,622,963	–	29,444,402
Total capital assets being depreciated, net – Housing Authority of the County of Monterey	34,813,778	100,499	(1,582)	34,912,695
Capital assets, net – Housing Authority of the County of Monterey	47,852,868	1,449,772	(2,113,727)	47,188,913
Benito FLC, LP:				
Capital assets not being depreciated – Construction in progress	–	12,365,999	–	12,365,999
Total capital assets not being depreciated	–	12,365,999	–	12,365,999
Rippling River Affordable Housing, LP:				
Capital assets not being depreciated:				
Land	5,126,325	–	–	5,126,325
Construction in progress	4,804,653	218,417	–	5,023,070
Total capital assets not being depreciated	9,930,978	218,417	–	10,149,395
Capital assets being depreciated:				
Buildings	–	8,993,065	–	8,993,065
Equipment	–	6,094	–	6,094
Total capital assets being depreciated	–	8,999,159	–	8,999,159
Accumulated depreciation:				
Buildings	–	153,799	–	153,799
Equipment	–	–	–	–
Total accumulated depreciation	–	153,799	–	153,799
Total capital assets being depreciated, net – Rippling River Affordable Housing, LP	–	8,845,360	–	8,845,360
Capital assets, net – Rippling Affordable Housing, LP	$ 9,930,978	$ 9,063,777	$ –	$ 18,994,755

NOTE 7. CAPITAL ASSETS (Continued)

	BALANCE AS OF JUNE 30,2006	ADDITIONS TRANSFERS	DELETIONS TRANSFERS	BALANCE AS OF JUNE 30,2007
Tynan Affordable Housing, LP:				
Capital assets not being depreciated –				
Construction in progress	$ –	10,301,919	–	10,301,919
Total capital assets not being depreciated	–	10,301,919	–	10,301,919
Total capital assets being depreciated, net	–	10,301,919	–	10,301,919
Capital assets, net	$ 57,783,846	$ 33,181,467	$ (2,113,727)	$ 88,851,586

NOTE 8. OTHER ASSETS

Other assets at June 30, 2007 includes cumulative costs incurred for the development of the following projects:

Capitalized land lease	$ 2,700,830
Receivable from related party	678,654
Greenfield Homeownership	342,619
Fanoe Vista	64,626
Miscellaneous	122,777
Total	$ 3,909,506

NOTE 9. DEFERRED REVENUE

Deferred revenue at June 30, 2007 consists of the following:

Funds received for future development	$ 299,475
Excess payments over expenses for Migrant Farm Housing Program	169,283
Miscellaneous receipts not yet spent for restricted purpose	22,331
Total	$ 491,089

NOTE 10. LINE OF CREDIT

Under the credit agreement dated June 30, 2007, Rabobank (the Bank) agrees to make credit advances to the Authority up to and including May 19, 2008 in amounts not to exceed $4,000,000 in the aggregate any time. At June 30, 2007, advances outstanding were $2,610,000. The line is collateralized by negative pledge agreement dated June 30, 2007. Under the terms of the agreement, the Authority agrees not to encumber, hypothecate, or pledge a certain Certificate of Deposit account held by the Bank in the amount of $4,500,000.

NOTE 11. LONG–TERM DEBT

Long–term debt consists of the following at June 30, 2007:

Primary Government:

Notes payable to U.S. Department of Agriculture Rural Development, due in combined monthly payments of $13,748 including principal and interest at 1% per annum at various maturing dates from January 1, 2007 to January 5, 2037. These notes are secured by Farm Labor Center Properties located in Salinas, Castroville, and Chualar, California.	$ 2,000,815
Note payable to California Housing Finance Agency (CHFA), due in monthly payments of $21,598 including interest at 8.15% per annum until May 1, 2013. The note is secured by Portola Vista Housing Project property in Monterey, California.	1,213,429
Notes payable to Department of Housing and Community Development, interest only payments at 3% per annum to the extent of residual receipts available from the operation of HOME program. These notes are secured by Pueblo Del Mar property in Marina, California.	952,429
Note payable to California Housing Finance Agency (CHFA), interest only payments at 3% per annum to the extent of residual receipts available from the operation of HELP project. The note is unsecured.	1,000,000
Note payable to the County of Monterey due in principal only annual payments of $11,391 until July 1, 2032. The note bears no interest and is secured by the Castroville Farm Labor Center property.	284,770
Note payable to California Housing Finance Agency (CHFA), interest only payment at 3% per annum to the extent of residual receipts available from the operation of HELP project. The note is unsecured.	500,000
Note payable to California Housing Finance Agency (CHFA), interest only payment at 3% per annum to the extent of residual receipts available from the operation of HELP project. The note is unsecured.	500,000
Note payable to the County of Monterey due in full on June 20, 2022. The note bears no interest and is secured by the Castroville Farm Labor Center property.	28,000
Total long–term debt of the Housing Authority of the County of Monterey	$ 6,479,443

NOTE 11. LONG–TERM DEBT (Continued)

Long–Term Debt of Projects of Blended Component Units:

Benito FLC, LP:

Note payable to the City of Soledad for the maximum amount of $3,760,000. Beginning November 30, 2006 the note will bear interest at 4% per annum. The original note balance plus accrued interest is payable in full by the Partnership on November 30, 2063. Secured by a leasehold deed of trust.	$ 3,710,000
Note payable to the Soledad Redevelopment Agency in the original amount of $500,000. The note bears interest at 4% per annum. The original note balance plus accrued interest is payable in full by the Partnership on May 5, 2061. Secured by a leasehold deed of trust.	500,000
Note payable to Citicorp North America for the maximum amount of $10,924,222. During construction, the note will bear interest at 70% of LIBOR plus 1.5% (5.245% at June 30, 2007) during the construction phase. Interest only payments will be due monthly until construction is complete. Once completed, the note will convert to two separate notes, Tranche A and Tranche B, in the maximum of $1,620,000 and $1,664,059, monthly principal and interest payments will be due until maturity date of December 2025 and December 2020, respectively, at fixed interest rates at 5.76% and 5.69%, respectively. Secured by a leasehold deed of trust.	4,769,489
Total long–term debt of the Benito FLC, LP	8,979,489

Rippling River Affordable Housing, LP:

Note payable to the Housing Authority of the County of Monterey. The loan is due in annual installments of principal and interest at 5% and is due May 2061. Secured by a deed of trust.	8,070,000
Note payable to Citicorp North America, Inc. for the maximum amount of $11,386,517. During construction, the note will bear interest at the LIBOR plus 1.6% (5.4048% at June 30, 2007) during the construction phase. Once completed, the note will convert to two separate notes, Tranche A and Tranche B. Tranche A has a principal amount equal to the lesser of $3,455,222 or amount which supports 1.15 to 1.00 debt service ratio with a fixed interest rate of 5.37%, a loan term of 16 years, and an amortization period of 35 years after conversion. Tranche B has a principal amount equal to the lesser of $1,710,794 or an amount which supports 1.15 to 1.00 debt service ratio with a fixed interest rate equal to 5.27% and a loan term and amortization period of 10 years after loan conversion. Secured by a deed of trust.	9,649,358
Note payable to Alliant Tax Credit Partnership, 33–A, the investment limited partner. The loan bears interest at 1% per annum and is due and payable on the earlier of the funding of the County of Monterey note or funding of the installment of the Investment Limited Partner capital contribution. Secured by a deed of trust.	483,449
Total forward	$ 18,202,807

NOTE 11. LONG–TERM DEBT (Continued)

Rippling River Affordable Housing, LP:

Total forward	$ 18,202,807
Note payable to the County of Monterey. The loan is due in annual installments of principal and interest at 3% and is due May 2061. Secured by a deed of trust.	346,625
Total long–term debt of Rippling River Affordable Housing, LP	18,549,432

Tynan Affordable Housing, LP:

Note payable to the City of Salinas in the original amount of $2,600,000. Beginning July 1, 2007 the note will bear interest at 1% per annum. The original note balance plus accrued interest is payable in full by the Partnership on September 27, 2061. Secured by a leasehold deed of trust.	2,600,000
Note payable to the Housing Authority of the County of Monterey in the original amount of $1,000,000. The note bears interest at 3% per annum. The original note balance plus accrued interest is payable in full by the Partnership on April 30, 2010. Secured by a leasehold deed of trust.	1,000,000
Note payable to U.S. Bank for the maximum amount of $12,890,107. During construction, the note will bear interest at 5.31% per annum. Interest only payments will be due monthly until construction is complete. Once completed, monthly principal and interest payments will be due until maturity date of June 1, 2044. Secured by a leasehold deed of trust.	4,447,475
Total long–term debt of the Tynan Affordable Housing, LP	8,047,475
Total	42,055,839
Less current portion	334,809
Total	41,721,030
Less reported as other noncurrent liabilities	1,000,000
Total long–term debt	$ 40,721,030

Activities in long–term debt during the year ending June 30, 2007 are as follows:

Balance at June 30, 2006	$ 6,800,623
Additions – inclusion of partnerships	35,576,396
Reductions	(321,180)
Balance at June 30, 2007	$ 42,055,839

The Consolidated Omnibus Budget Act of 1986 (COBRA) authorized the Secretary of the Department of Housing and Urban Development to forgive all permanent notes held by the U.S. Treasury. In the event that the notes are not forgiven by HUD, the Conventional Program's Annual Contributions Contract (ACC) states that all debt service requirements related to these notes will be HUD's responsibility. It is management's opinion, that the Authority is not required to repay these notes unless the federal government fails to honor the ACC.

NOTE 11. LONG–TERM DEBT (Continued)

	Principal				
	Housing Authority of the County of Monterey	Benito FLC, LP	Rippling River Affordable Housing, LP	Tynan Affordable Housing, LP	Total
2008	$ 334,809	$ –	$ –	$ –	$ 334,809
2009	350,442	149,933	841,482	38,790	1,380,647
2010	367,282	172,832	411,169	1,044,523	1,995,806
2011	385,429	183,054	433,800	46,945	1,049,228
2012	1,404,994	193,881	457,677	49,500	2,106,052
2013–2018	2,185,091	1,429,286	3,326,373	358,978	7,299,728
2019–2024	1,185,755	2,017,680	4,587,630	493,319	8,284,384
2025–2030	152,876	622,823	74,675	677,936	1,528,310
2031–2036	112,765	–	–	931,643	1,044,408
2037–2042	–	–	–	1,280,297	1,280,297
2043–2048	–	–	–	525,544	525,544
2049–2054	–	–	–	–	–
2055–2060	–	–	–	–	–
2061–2062	–	4,210,000	8,416,626	2,600,000	15,226,626
Total	$ 6,479,443	$ 8,979,489	$ 18,549,432	$ 8,047,475	$ 42,055,839

	Interest				
	Housing Authority of the County of Monterey	Benito FLC, LP	Rippling River Affordable Housing, LP	Tynan Affordable Housing, LP	Total
2008	$ 201,377	$ 418,560	$ 940,262	$ 292,161	$ 1,852,360
2009	185,745	416,665	885,783	271,630	1,759,823
2010	168,905	429,971	902,821	289,028	1,790,725
2011	150,757	419,749	880,189	256,605	1,707,300
2012	131,192	408,922	856,312	254,051	1,650,477
2013–2018	277,816	2,019,129	4,143,668	1,436,328	7,876,941
2019–2024	73,343	1,430,735	2,882,410	1,301,986	5,688,474
2025–2030	8,620	870,785	2,069,827	1,117,369	4,066,601
2031–2036	3,553	842,000	2,069,494	863,661	3,778,708
2037–2042	–	842,000	2,069,494	515,008	3,426,502
2043–2048	–	842,000	2,069,494	159,558	3,071,052
2049–2054	–	842,000	2,069,494	130,000	3,041,494
2055–2060	–	842,000	2,069,494	130,000	3,041,494
2061–2062	–	168,400	413,899	52,000	634,299
Total	$ 1,201,308	$ 10,792,916	$ 24,322,641	$ 7,069,385	$ 43,386,250

NOTE 12. NON–CONTROLLING INTEREST IN LIMITED PARTNERSHIP

Non–controlling interest in limited partnership represents proportionate share of partnership equities allocable to limited partners of various limited partnerships that components units of the Authority are general partners of. The following is a list of component units and related limited partnerships with non–controlling interests:

Tynan Village, Inc.	Tynan Affordable Housing, LP	$ 3,995,326
Monterey County Housing Authority	Benito FLC, LP	1,142,036
Rippling River Affordable Housing, LLC	Rippling River Affordable Housing, LP	(809,992)
Total		$ 4,327,370

NOTE 13. RESTRICTED NET ASSETS

Restricted net assets at June 30, 2007 are as follows:

Cash and cash equivalents – restricted	$ 5,230,350
Less liabilities from restricted assets	(1,096,329)
Restricted net assets	$ 4,134,021

NOTE 14. RESTATEMENT OF PRIOR YEAR NET ASSETS

Net assets at June 30, 2006 have been restated as follows:

Balance, as previously stated	$ 63,350,895
Reclassification of overpaid funds received for the Section 8 Housing Choice Voucher program	1,666,431
Write–off of soft construction costs	(104,026)
Transfer of equity to new entity	(208,331)
Balance, as restated	$ 64,704,969

NOTE 15. DEFINED CONTRIBUTION PENSION PLAN

The Authority contributes to a defined contribution plan administered by Massachusetts Mutual. A defined contribution pension plan provides benefits in return for services rendered, provides an individual account for each participant, and specifies how contributions to the individual's account are to be determined instead of specifying the amount of benefits the individual is to receive. Under a defined contribution pension plan, the benefits a participant will receive depend solely on the amount contributed to the participant's account, the return earned on investments of those contributions, and forfeitures of other participants' benefits that may be allocated to such participant's account. All regular, full–time, eligible employees of the Authority may participate in the pension plan from the date they are eligible. Contributions made by an employee vest immediately and contributions made by the Authority vest after 5 years of full–time employment. An employee who leaves the employment of the Authority is entitled to his or her contributions and the Authority's contributions if vesting requirements are satisfied.

Each covered employee may contribute from 1.1% up to 13% of his or her gross earnings to the pension plan. The Authority is required to contribute an amount equal to 11.9% of the employee's gross earnings.

During the year, the Authority's required and actual contributions amounted to $541,373, which was 11.9% less the premium for supplemental life insurance. Employees' required contributions amounted to $82,366, which was 1.1% of the Authority's current year covered payroll. Employees' voluntary contributions amounted to $115,110, which was 2.9% of the Authority's current covered year payroll.

NOTE 16. LEASE AGREEMENT

The Authority leases the property for the Lakeview Towers Project from the Las Palmas Ranch Partnership (the Partnership). The Authority pays the Partnership $60,000 per year in return for the use of the Project. The Partnership pays the Authority $59,988 per year to partially reimburse the Authority for the Project's management, insurance, maintenance, and replacement reserve expenses. The Authority has the option to purchase the Project by giving a written notice to the Partnership beginning December 16, 2012 and ending June 16, 2013. The purchase price during this option period is $4,128,000. The Authority is currently exploring funding from State agencies for the necessary repairs and renovations before exercising the option.

NOTE 17. JOINT POWERS AGREEMENT – WORKERS COMPENSATION INSURANCE

The Authority participates in the joint venture powers agreement (JPA) with California Housing Workers' Compensation Authority (CHWCA). CHWCA was formed to provide workers' compensation insurance coverage for member housing authorities. At December 31, 2006, there were 31 members. The CHWCA is not a component unit of the Authority for financial reporting purposes.

Condensed audited financial information for the year ended December 31, 2006, is as follows:

Total assets	$ 21,069,317
Total liabilities	11,427,502
Total net assets	$ 9,641,815
Total revenues	$ 6,568,300
Total expenses	2,322,943
Net increase in net assets	$ 4,245,357

CHWCA had no long–term debt outstanding at December 31, 2006. The Authority's share of the year–ended assets, liabilities, or retained earnings has not been calculated.

NOTE 18. CONTINGENCIES AND COMMITMENTS

The Authority receives significant financial assistance from the U.S. Government in the form of contracts and grants. Entitlement to these resources is generally contingent upon compliance with the terms and conditions of the contract or grant agreements and applicable federal regulations, including the expenditure of the resources for eligible purposes. Substantially all federal grants and contracts are subject to a financial and compliance audit under federal regulations. Disallowed costs as a result of compliance audits become a liability of the Authority. Management believes that the potential for a material liability due to future audit disallowance is remote.

SUPPLEMENTAL INFORMATION

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
STATEMENT OF MODERNIZATION COSTS
COMPLETED AT JUNE 30, 2007

HUD – CAPITAL FUND PROGRAM
NO. CA39–PO33–501–04

Funds approved	$ 1,408,024
Funds expended	1,408,024
Excess (deficit) of funds approved	$ –
Funds advanced	$ 1,408,024
Funds expended	1,408,024
Excess (deficit) of funds advanced	$ –

THE HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
FDS SCHEDULE SUBMITTED TO HUD - BALANCE SHEET
JUNE 30, 2007

Line Item #	Account Description	Farm Labor Housing Loans and Grants 10.405	N/CS/R Section 8 Programs 14.182	Supportive Housing Program 14.235	Shelter Plus Care 14.238	Low Rent Public Housing 14.850a	PIH Drug Elimin. Program 14.854	Section 8 MOD Rehab. Program 14.856 MR1 and Portola Vista	Other Federal Program (CDBG)	Section 8 MOD Rehab. Program 14.856 MR 3	Comprehensive Grant Program 14.859	Section 8 Housing Choice Vouchers Program 14.871	Capital Fund Program 14.872	Business Activities	State/ Local (Lakeview & King City Migrant	TOTAL	Component Units
	ASSETS:																
	CURRENT ASSETS:																
	Cash:																
111	Cash - unrestricted	-	-	-	-	-	-	-		-	-	134,154	-	828,117	166,753	1,129,018	28,583
112	Cash - restricted - modernization and development	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
113	Cash - other restricted	982,845	-	291,691	-	-	-	-		-	-	-	-	85,021	70,602	1,450,159	156,838
114	Cash - tenant security deposits	64,658	-	21,266	-	208,408	-	19,934		-	-	-	-	66,461	23,381	404,028	148,838
115	Cash - Restricted for payment of current liability	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
100	Total cash	1,047,503	-	312,957	-	208,408	-	19,934	-	-	-	134,154	-	979,598	260,656	2,963,205	334,259
	Accounts and Notes Receivables:																
121	Accounts receivable - PHA projects	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
122	Accounts receivable - HUD other projects	-	-	29,588	11,537	-	-	-		-	-	-	95,245	-	-	136,370	-
124	Accounts receivable - other government	-	-	-	-	-	-	-		-	-	-	-	-	111,225	111,225	-
125	Accounts receivable - miscellaneous	2,183	-	5,338	-	22,544	-	-		-	-	1,217	-	1,287,812	-	1,319,094	28,642
126	Accounts receivable- tenants - dwelling rents	4,972	-	14,863	-	123,413	-	2,806		-	-	-	-	41,470	14,866	202,390	28,272
126.1	Allowance for doubtful accounts - dwelling rents	(747)	-	(3,441)	-	(43,399)	-	-		-	-	-	-	(17,779)	(6,415)	(71,575)	(9,701)
126.2	Allowance for doubtful accounts - other	-	-	-	-	(6,703)	-	-		-	-	-	-	-	-	(6,703)	-
127	Notes and mortgages receivable- current	-	-	-	-	-	-	-		-	-	-	-	-	2,000,000	2,000,000	1,000
128	Fraud recovery	-	-	-	-	-	-	-		-	-	247,793	-	-	-	247,793	-
128.1	Allowance for doubtful accounts - fraud	-	-	-	-	-	-	-		-	-	(247,793)	-	-	-	(247,793)	-
129	Accrued interest receivable	-	-	330	-	-	-	8,478		-	-	-	-	376,221	100,467	485,496	16,805
120	Total receivables, net of allowances for doubtful accounts	6,408	-	46,678	11,537	96,055	-	11,284	-	-	-	1,217	95,245	1,687,739	2,220,143	4,176,297	60,818
	Current Investments																
131	Investments - unrestricted	-	-	375	-	-	-	-		-	-	89,882	-	7,844,053	187,157	8,121,467	56,482
132	Investments - restricted	-	113,625	-	-	-	-	656,157		4,672	-	2,208,936	-	220,000	311,617	3,414,907	2,073,562
135	Investments - restricted for payment of current liability	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
142	Prepaid expenses and other assets	8,403	-	3,192	-	37,190	-	2,670		-	-	-	-	292,628	5,771	349,854	442,977
143	Inventories	-	-	-	-	-	-	-		-	-	-	10,769	30,684	-	41,453	-
143.1	Allowance for obsolete inventories	-	-	-	-	-	-	-		-	-	-	-	(30,684)	-	(30,684)	-
144	Interprogram - due from	334,623	-	-	721	56,035	30,137	-		24,562	3,467	-	-	4,789,554	14,454	5,253,553	-
145	Assets held for sale	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
146	Amounts to be provided	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
150	TOTAL CURRENT ASSETS	1,396,537	113,625	363,282	12,258	397,088	30,137	690,045	-	29,234	3,467	2,434,989	106,814	15,815,558	2,935,798	24,290,052	2,968,098
	NONCURRENT ASSETS:																
	Fixed Assets:																
161	Land	1,065,879	-	1	-	5,751,425	-	-		-	-	-	-	7,576,171	41,227	14,434,703	2,470,977
162	Buildings	6,342,950	-	4,468,400	-	40,545,196	286,843	3,029,428		-	-	-	-	35,815,069	-	70,487,886	11,444,525
163	Furniture, equipment & machinery - dwellings	46,656	-	-	-	115,915	15,000	100,053		-	-	-	-	42,008	6,578	326,210	141,412
164	Furniture, equipment & machinery - administration	17,720	-	14,048	-	364,617	-	-		5,511	680,145	136,672	81,962	1,259,485	-	2,562,160	10,647
165	Leasehold improvements	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
166	Infrastructure	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
166	Accumulated depreciation	(3,339,874)	-	(796,460)	-	(18,141,581)	(88,041)	(2,533,463)		(5,511)	(680,145)	(56,205)	(71,111)	(3,880,282)	(6,578)	(29,598,201)	(2,789,541)
167	Construction in Progress	1,702,093	-	-	-	-	-	-		-	-	-	1,265,707	27,690,928	-	30,658,728	625,171
160	Total fixed assets, net of accumulated depreciation	5,836,424	-	3,687,989	-	28,635,622	213,802	596,018	-	-	-	80,467	1,276,598	48,503,439	41,227	88,831,586	11,903,091
	Other non-current assets:																
171	Notes and mortgages receivable - non-current	-	-	-	-	-	-	-		-	-	-	-	11,370,632	-	11,370,632	-
172	Notes and mortgages receivable-non-current - past due	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
																	-
174	Other assets	-	-	-	-	-	-	-		-	-	-	-	3,909,506	-	3,909,506	-
175	Undistributed debits	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
176	Investment in joint ventures	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
													-				
180	TOTAL NONCURRENT ASSETS	5,836,424	-	3,687,989	-	28,635,622	213,802	596,018	-	-	-	80,467	1,276,598	63,783,577	41,227	104,131,724	11,903,091
190	TOTAL ASSETS	7,232,961	113,625	4,051,191	12,258	29,032,710	243,939	1,286,063	-	29,234	3,467	2,494,566	1,382,622	79,597,135	2,943,025	128,421,776	14,871,189

THE HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
FDS SCHEDULE SUBMITTED TO HUD - BALANCE SHEET
JUNE 30, 2007

Line Item #	Account Description	Farm Labor Housing Loans and Grants 10.405	N/CS/R Section 8 Programs 14.182	Supportive Housing Program 14.235	Shelter Plus Care 14.238	Low Rent Public Housing 14.850a	FIH Drug Elimin. Program 14.854	Section 8 MOD Rehab. Program 14.856 MR5 and Portola Vista	Other Federal Program (CDBG)	Section 8 MOD Rehab. Program 14.856 MR 3	Comprehensive Grant Program 14.859	Section 8 Housing Choice Vouchers Program 14.871	Capital Fund Program 14.872	Business Activities	State/ Local (Lakeview & King City Migrant	TOTAL	Component Unit
	LIABILITIES AND EQUITY:																
	Liabilities																
	Current Liabilities																
311	Bank overdraft	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
312	Accounts payable ≤ 90 days	13,691	-	22,542	-	58,993	-	5,643		-	-	39,193	17,034	2,604,557	63,832	2,825,485	59,673
313	Accounts payable > 90 days past due	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
321	Accrued wage/payroll taxes payable	-	-	-	-	-	-	-		-	-	-	-	376,765	-	376,765	-
322	Accrued compensated absences	7,258	3,494	2,393	-121	50,229	-	2,336		1,552	-	120,559	39,892	184,514	11,595	424,543	24,209
324	Accrued contingency liability	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
325	Accrued interest payable	1,847	-	205,026	-	-	-	-		-	-	-	-	503,448	264,296	1,064,617	391,694
331	Accounts Payable - HUD PHA Programs	-	113,625	7,900	-	-	-	5,721		4,672	-	-	-	-	-	131,918	-
332	Accounts Payable - PHA projects	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
333	Accounts payable - other government	-	-	-	-	45,937	-	-		-	-	-	-	12,188	-	58,125	-
341	Tenant security deposits	64,597	-	21,250	-	227,152	-	18,382		-	-	-	-	48,596	22,951	403,128	147,799
342	Deferred revenue	5,649	-	757	-	20,357	-	638		-	-	-	10,769	312,670	171,796	522,636	3,860
343	Current portion of L-T debt - capital projects	168,403	-	-	-	-	-	166,406		-	-	-	-	2,610,000	-	2,944,809	-
344	Current portion of L-T debt - operating borrowings	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
345	Other current liabilities	-	-	-	-	-	-	-		-	-	-	-	650,044	-	650,044	682,574
346	Accrued liabilities - other	-	-	-	-	-	-	-		-	-	406,024	-	1,362,603	-	1,768,627	570,000
347	Intergovern - due to	368,237	57,715	306,879	11,231	-	34,721	6,209		-	1,242	173,965	38,319	3,961,007	295,934	5,253,553	-
348	Loan Liability - current	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
310	TOTAL CURRENT LIABILITIES	629,682	174,834	566,747	11,652	402,668	34,721	205,435	-	6,224	1,242	737,741	106,014	12,716,482	830,908	16,424,280	1,879,289
	NONCURRENT LIABILITIES:																
351	Long-term debt, net of current - capital projects	2,145,181	-	952,429	-	-	-	1,047,023		-	-	-	-	36,576,397	-	40,721,030	11,860,464
352	Long-term debt, net of current - operating borrowings	-	-	-	-	-	-	-		-	-	-	-	-	2,000,000	2,000,000	-
353	Non-current liabilities- other	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
354	Accrued Compensated Absences - non current	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
355	Loan Liability - non current	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
350	TOTAL NONCURRENT LIABILITIES	2,145,181	-	952,429	-	-	-	1,047,023	-	-	-	-	-	36,576,397	2,000,000	42,721,030	11,860,464
300	TOTAL LIABILITIES	2,774,863	174,834	1,519,176	11,652	402,668	34,721	1,252,458	-	6,224	1,242	737,741	106,014	49,292,879	2,830,908	59,145,280	13,739,673
	EQUITY:																
501	Investment in general fixed assets	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
	Contributed Capital:																
502	Project notes (HUD)	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
503	Long-term debt - HUD guaranteed	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
504	Net HUD PHA contributions	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
505	Other HUD contributions	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
507	Other contributions	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
508	Total contributed capital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
508.1	Invested in Capital Assets, Net of Related Debt	3,522,840	-	2,735,560	-	28,635,623	213,902	(617,410)	-	-	-	60,467	1,276,598	9,317,042	41,227	45,185,749	42,626
	Reserved fund balance:																
509	Reserved for operating activities	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
510	Reserved for capital activities	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
511	Total reserved fund balance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
511.1	Restricted Net Assets	982,845	113,625	291,691	-	-	-	656,157		4,672	-	1,802,312	-	-	282,219	4,134,021	-
512	Undesignated fund balance/retained earnings	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
512.1	Unrestricted Net Assets	(47,187)	(174,834)	(405,236)	606	(4,081)	(4,584)	(5,142)		19,338	2,225	(106,464)	-	20,987,214	(203,220)	19,956,726	1,097,890
513	TOTAL EQUITY	4,458,498	(61,209)	2,532,015	606	28,630,542	209,318	33,605	-	23,910	2,225	1,756,315	1,276,598	30,304,256	110,217	69,276,496	1,140,516
600	TOTAL LIABILITIES AND EQUITY	7,233,361	113,625	4,051,191	12,258	29,033,210	243,939	1,286,063	-	29,234	3,467	2,494,556	1,382,612	79,597,135	2,941,125	128,421,776	14,871,189

THE HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
FDS SCHEDULE SUBMITTED TO HUD - INCOME STATEMENT
JUNE 30, 2007

Line Item #	Account Description	Farm Labor Housing Loans and Grants 10.405	N/C S/R Section 8 Programs 14.182	Supportive Housing Program 14.235	Shelter Plus Care 14.238	Low Rent Public Housing 14.850a	PIH Drug Elimin. Program 14.854	Section 8 MOD Rehab. Program 14.856 MR 1 and Portola Vista	Other Federal Program (CDBG)	Section 8 MOD Rehab. Program 14.856 MR 3	Comprehensive Grant Program 14.859	Section 8 Housing Choice Vouchers Program 14.871	Cap. Fund 14.872	Business Activities	State/ Local (Lakeview & King City Migrant	TOTAL	Component Units
	REVENUE:																
703	Net tenant rental revenue	779,496	-	276,549	-	2,661,495	-	213,872		-	-	-	-	541,261	198,235	4,570,902	2,074,853
704	Tenant revenue - other	45,884	-	33,048	9	504	-	444		-	-	-	-	315,480	72,457	467,826	73,225
705	Total tenant revenue	825,380	-	209,591	9	2,661,999	-	214,316	-	-	-	-	-	856,741	270,692	5,038,728	2,148,079
706	HUD PHA grants	-	1,281,440	363,541	114,053	205,228	-	-		242,646	-	29,275,386	101,973	53,640	-	31,675,907	-
706.1	Capital Grants	-	-	-	-	-	-	-		-	-	-	923,031	-	-	923,031	-
708	Other government grants	192,408	-	30,997	-	-	-	384,671		-	-	-	-	-	413,782	961,958	37,379
711	Investment income - unrestricted	17,323	-	1,702	-	-	-	2,589		-	-	2,243	-	889,609	68,719	982,185	88,180
712	Mortgage interest income	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
713	Proceeds from disposition of assets held for sale	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
713.1	Cost of sale of assets	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
714	Fraud recovery	-	-	-	-	-	-	-		-	-	28,062	-	-	-	28,062	-
715	Other revenue	-	-	33	-	198,789	-	3,395		-	-	76,614	-	1,458,026	-	1,736,857	1,797,692
716	Gain or loss on sale of fixed assets	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
720	Investment income - restricted	-	2,670	2,469	-	2,967	-	29,806		213	-	53,835	-	(189)	11,777	103,548	147
		-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
700	TOTAL REVENUE	975,211	1,284,110	608,333	114,062	3,066,983	-	634,777	-	242,859	-	29,434,149	1,024,104	3,299,827	764,970	41,449,376	4,071,677
	EXPENSES:																
	Administrative																
911	Administrative salaries	101,161	69,043	66,662	5,784	707,557	-	38,836		13,999	-	1,640,326	28,513	1,203,538	71,805	3,948,124	183,169
912	Auditing fees	2,803	414	1,424	44	10,705	-	8,199		138	-	15,162	-	10,667	13,671	72,321	27,945
913	Outside management fees	-	-	-	-	-	-	39,537		-	-	-	-	26,980	322,929	189,546	126,665
914	Compensated absences	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
915	Employee benefit contributions- administrative	37,276	22,551	23,196	2,021	246,532	-	14,036		4,906	-	577,526	8,762	364,547	29,408	1,330,761	1,238,668
916	Other operating- administrative	55,595	11,772	18,089	1,048	183,618	-	14,314		2,648	-	324,721	53,302	358,021	23,519	1,046,647	152,025
	Tenant services																
921	Tenant services - salaries	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
922	Relocation costs	-	-	-	-	-	-	-		-	-	-	1,856	-	-	1,856	-
923	Employee benefit contributions- tenant services	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
924	Tenant services - other	-	122	149,234	12	7,266	-	5,135		23	-	2,743	-	632	-	165,167	4,372
	Utilities																
932	Water	45,530	-	27,891	-	178,406	-	12,356		-	-	-	-	44,983	28,766	337,932	46,808
933	Electricity	13,814	-	21,083	-	59,931	-	30,546		-	-	-	-	85,087	31,555	242,026	92,248
933	Gas	10,713	-	25,624	-	36,916	-	6,157		-	-	-	-	43,853	14,050	134,924	43,265
934	Fuel	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
935	Labor	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
937	Employee benefit contributions- utilities	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
938	Other utilities expense	17,901	-	20,134	-	95,154	-	7,594		-	-	-	-	9,412	18,031	168,626	32,539
	Ordinary maintenance & operation																
941	Ordinary maintenance and operations - labor	86,368	12	63,334	-	449,029	-	32,487		3	-	1,289	-	256,941	92,986	984,999	168,806
942	Ordinary maintenance and operations - materials & other	50,420	430	19,912	33	211,661	-	11,672		94	-	9,861	6,126	189,537	34,728	534,494	73,088
943	Ordinary maintenance and operations - contract costs	117,095	320	59,911	23	530,015	-	27,013		65	-	7,009	-	200,798	69,145	1,011,527	147,385
945	Employee benefit contributions- ordinary maintenance	34,476	-	25,054	-	168,746	-	12,569		-	-	430	2,514	94,316	37,006	375,111	390,228
	Protective services																
951	Protective services - labor	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
952	Protective services- other contract costs	503	-	1,281	-	6,175	-	1,030		-	-	92	-	14,972	839	24,911	1,854
953	Protective services - other	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
955	Employee benefit contributions- protective services	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
	General expenses																
961	Insurance premiums	35,162	1,608	24,191	126	171,105	-	25,672		321	-	36,468	-	78,703	35,740	409,097	86,827
962	Other general expenses	-	-	-	-	-	-	-		-	-	9,111	-	32,558	20,768	62,437	487,577
963	Payments in lieu of taxes	368	-	5	-	64,398	-	-		-	-	-	-	(2,752)	14,114	56,633	424
964	Bad debt - tenant rents	1,596	-	18,002	-	109,804	-	(692)		-	-	-	-	42,982	10,451	183,043	37,376
965	Bad debt- mortgages	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
966	Bad debt - other	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-

THE HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
FDS SCHEDULE SUBMITTED TO HUD - INCOME STATEMENT
JUNE 30, 2007

Line Item #	Account Description	Farm Labor Housing Loans and Grants 10.405	N/C S/R Section 8 Programs 14.182	Supportive Housing Program 14.235	Shelter Plus Care 14.238	Low Rent Public Housing 14.850a	FIH Drug Elimin. Program 14.854	Section 8 MOD Rehab. Program 14.856 MR 1 and Portola Vista	Other Federal Program (CDBG)	Section 8 MOD Rehab. Program 14.856 MR 3	Comprehensive Grant Program 14.859	Section 8 Housing Choice Vouchers Program 14.871	Cap. Fund 14.872	Business Activities	State/Local (Lakeview & King City Migrant	TOTAL	Component Units
967	Interest expense	20,766	-	28,572	-	-	-	105,751		-	-	-	-	481,139	59,959	696,188	648,953
968	Severance expense	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
969	TOTAL OPERATING EXPENSES	631,578	187,192	594,508	9,095	3,217,719	-	392,982	-	22,397	-	2,624,729	101,073	3,845,626	728,479	11,976,170	3,988,422
970	EXCESS OPERATING REVENUE OVER OPERATING EXPENSES	343,633	1,176,918	13,833	104,967	(150,756)	-	241,795	-	220,662	-	26,809,411	923,031	(245,799)	35,491	29,473,206	83,255
971	Extraordinary maintenance	9,047	-	12,208	-	326	-	14,176		-	-	-	-	10,656	113,846	158,259	17,011
972	Casualty losses - non capitalized	-	-	-	-	6,042	-	-		-	-	-	-	1,092	-	7,134	(316)
973	Housing assistance payments	-	1,217,990	-	105,605	-	-	-		219,637	-	26,583,865	-	-	-	28,127,097	13,035
974	Depreciation expense	155,312	-	311,242	-	952,445	9,313	99,343		-	-	15,117	4,550	422,591	-	1,769,922	361,605
975	Fraud losses	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
976	Capital outlays- governmental funds	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
977	Debt principal payment- governmental funds	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
978	Dwelling units rent expense	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
900	TOTAL EXPENSES	795,937	1,325,182	717,950	114,700	4,376,532	9,313	506,501	-	241,854	-	28,223,711	105,632	3,975,965	841,325	42,038,582	4,379,847
	OTHER FINANCING SOURCES (USES)																
1001	Operating transfers in	-	-	-	-	-	-	-		-	-	-	-	107,974	-	107,974	-
1002	Operating transfers out	-	-	-	-	(32,974)	-	-	(75,000)	-	-	-	-	-	-	(107,974)	-
1003	Operating transfers from/to primary government	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1004	Operating transfers from/to component unit	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1005	Proceeds from notes, loans and bonds	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1006	Proceeds from property sales	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1007	Extraordinary Items (net gain/loss)	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1008	Special Items (net gain/loss)	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1010	TOTAL OTHER FINANCING SOURCES (USES)	-	-	-	-	(32,974)	-	-	(75,000)	-	-	-	-	107,974	-	-	-
1000	EXCESS (DEFICIENCY) OF TOTAL REVENUE OVER (UNDER) TOTAL EXPENSES	179,274	(41,072)	(109,617)	(538)	(1,142,523)	(9,313)	228,276	(75,000)	1,025	-	210,439	918,472	(672,164)	(76,366)	(589,206)	(308,170)
	MEMO ACCOUNT INFORMATION:																
1101	Capital outlays	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1102	Debt principal payments - enterprise funds	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-
1103	Beginning equity	4,279,224	(20,137)	2,641,632	1,344	28,515,620	218,531	(94,671)	75,000	21,985	2,225	(120,045)	1,615,662	26,025,046	186,572	63,350,897	1,646,258
1104	Prior period adjustments and equity transfers	-	-	-	-	1,257,536	-	-		-	-	1,666,431	(1,257,536)	4,848,374	-	6,514,805	(197,572)
1105	Changes in compensated absence liability (in the GLTDAG)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1106	Changes in contingent liability balance (in the GLTDAG)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1107	Changes in unrecognized pension transition liability (in the GLTDAG)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1108	Changes in special term/severance benefits liability (in the GLTDAG)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1109	Changes in allowance for doubtful accounts - dwelling rents	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1110	Changes in allowance for doubtful accounts - other	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1112	Depreciation "add back"	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1113	Maximum annual contributions commitment (per ACC)	-	1,263,265	-	-	-	-	-	-	25,124	-	29,292,219	-	-	-	30,580,608	-
1114	Prorate maximum annual contributions applicable to a period of less than twelve months	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1115	Contingency reserve, ACC program reserve	-	364,760	-	-	-	-	-	-	1,420,079	-	1,039,502	-	-	-	2,824,341	-
1116	Total annual contributions available	-	1,628,025	-	-	-	-	-	-	1,445,203	-	30,331,721	-	-	-	33,404,949	-
1120	Unit months available	1,560	2,100	648	132	7,148	-	756	-	420	-	45,816	-	392	1,128	60,100	3,012
1121	Number of unit months leased	1,503	2,069	536	132	6,862	-	753	-	391	-	42,875	-	59	972	56,146	2,780
	Equity Roll Forward Test							-	-	-						Sum of A:	
	Calculation from R/E Statement	4,458,498	(61,209)	2,532,015	606	28,630,642	209,218	33,605	-	23,010	2,225	1,756,815	1,276,598	30,304,256	110,217	69,276,496	1,140,516
	B/S Line 513	4,458,498	(61,209)	2,532,015	606	28,630,642	209,218	33,605	-	23,010	2,225	1,756,815	1,276,598	30,304,256	110,217	69,276,496	1,140,516
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

To the Board of Commissioners
Housing Authority of the County of Monterey
Salinas, California

We have performed the procedure described in the second paragraph of this report, which was agreed to by Housing Authority of the County of Monterey and U.S. Department of Housing and Urban Development, Real Estate Assessment Center (REAC), solely to assist them in determining whether the electronic submission of certain information agrees with the related hard copy documents included within the OMB Circular A-133 reporting package. This agreed-upon procedures engagement was performed in accordance with the attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedure is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedure described below either for the purpose for which this report has been requested or for any other purpose.

We compared the electronic submission of the items listed in the "UFRS Rule Information" column with the corresponding printed documents listed in the "Hard Copy Documents" column. The results of the performance of our agreed-upon procedure indicate agreement or non-agreement of the electronically submitted information and hard copy documents as shown in the chart on page 44.

We were engaged to perform an audit in accordance with OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, for Housing Authority of the County of Monterey as of the year ended June 30, 2007 and have issued our report thereon dated March 22, 2008. The information in the "Hard Copy Documents" column was included within the scope or was a by-product, of that audit. Further, our opinion on the fair presentation of the Authority's Financial Data Schedule dated June 30, 2007, was expressed in relation to the basic financial statements of Housing Authority of the County of Monterey taken as a whole.

A copy of the reporting package required by OMB Circular A-133, which includes the auditors' reports, is available in its entirety from Housing Authority of the County of Monterey. We have not performed any additional auditing procedures since the date of the aforementioned audit reports. Further, we take no responsibility for the security of the information transmitted electronically to the U.S. Department of Housing and Urban Development, REAC.

This report is intended solely for the information and use of the Housing Authority of the County of Monterey and the U.S. Department of Housing and Urban Development, REAC, and is not intended to be and should not be used by anyone other than these specified parties

March 23, 2008

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UFRS RULE INFORMATION	HARD COPY DOCUMENTS	Agree	Do not agree
Balance Sheet, Revenue and Expense (data line items 111 to 1121	Financial Data Schedule of Component Units	x	
Footnotes (data element G5000–010)	Footnotes to Audited Basic Financial Statements of the reporting entity	x	
Type of opinion FDS	Auditor's Supplemental Report on FDS	x	

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INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *"GOVERNMENT AUDITING STANDARDS"*

To the Board of Commissioners
Housing Authority of the County of Monterey
Salinas, California

We have audited the financial statements of the ***Housing Authority of the County of Monterey*** as of and for the year ended June 30, 2007, and have issued our report thereon dated March 22, 2008. We conducted our audits in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in "Government Auditing Standards," issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered ***Housing Authority of the County of Monterey's*** internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the ***Housing Authority of the County of Monterey's*** internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the ***Housing Authority of the County of Monterey's*** internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be presented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

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Compliance and Other Matters

As part of obtaining reasonable assurance about whether the ***Housing Authority of the County of Monterey's*** financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under "Government Auditing Standards."

This report is intended for the information and use of the audit committee, management, federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than those specified parties.

March 23, 2008

Hayashi + Wayland

FEDERAL AWARDS PROGRAM

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2007

FEDERAL GRANTOR PASS–THROUGH GRANTOR PROGRAM TITLE	FEDERAL CFDA NO.	GRANT/PROGRAM NO.	FEDERAL DISBURSEMENTS\ EXPENDITURES
CASH ASSISTANCE:			
U.S. Department of Agriculture			
Direct Program			
USDA Rural Development			
Castroville FLC	10.405	04–027–946000757 02 4	$ 51,997
Chualar FLC	10.405	04–027–946000757 01 2	13,424
Salinas FLC	10.405	04–027–946000757 04 8	67,087
Total			132,508
U.S. Department of Housing and Urban Development			
Direct Program			
Public Housing – Comprehensive Grant			
Capital Fund #502–03	14.872	CA39–P033–502–03	21,214
Capital Fund #501–05	14.872	CA39–P033–501–05	1,002,889
Total			1,024,103
Public and Indian Housing:			
Conventional Low Rent	14.850	CA033–001–06D	4,423
Conventional Low Rent	14.850	CA033–001–07D	294,445
Total			298,868
Section 8 Housing Choice Voucher Program	14.871	CA39–V033	29,137,006
Section 8 Project–Based Cluster:			
Lower Income Housing Assistance Program – Mod Rehab #3	14.856	CA39–K033–003	242,690
New Construction and Substantial Rehabilitation:			
Steinbeck	14.182	CA39–O074–004	723,478
CHISPA	14.182	CA39–O091–001	557,964
Shelter Plus Care – Shelter Plus Care	14.238	CA01–C40–6001	114,053
			1,638,185
Supportive Housing Program	14.235	CA01–B506001	333,959
Supportive Housing Program	14.235	CA01–B606004	29,582
Total			363,541
Pass Through the State of California			
California Housing Finance Agency (Portola Vista)			
Lower Income Housing Assistance Program	14.856	CHFA No. 7900IN	384,671
Total Department of Housing and Urban Development			32,846,374
Total Expenditures of Federal Awards			$ 32,978,882

See Notes to Schedule of Expenditures of Federal Awards.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2007

NOTE 1. BASIS OF PRESENTATION

The accompanying schedule of expenditures of federal awards includes the federal grant activity of the Housing Authority of the County of Monterey and is presented on the accrual basis of accounting. The information in this schedule is presented in accordance with the requirements of OMB Circular A–133, "Audits of States, Local Governments, and Non–Profit Organizations." Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the preparation of, the general purpose financial statements.

NOTE 2. LOANS OUTSTANDING

The Authority had the following loans originated from the U.S. government. These loan programs are also included in the determination of federal awards expended for the year ended June 30, 2007. The outstanding balances at June 30 are as follows:

Program Title	Federal CFDA Number	Amount
Farm Labor Center	10.405	$ 2,000,815
HOME	14.239	$ 952,429

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INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A–133

To the Board of Commissioners
Housing Authority of the County of Monterey
Salinas, California

Compliance

We have audited the compliance of the ***Housing Authority of the County of Monterey*** with the type of compliance requirements described in the *U.S Office of Management and Budget (OMB) Circular A–133 Compliance Supplement* that are applicable to each of its major federal programs for the year ended June 30, 2007. The ***Housing Authority of the County of Monterey's*** major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to its major federal programs is the responsibility of the ***Housing Authority of the County of Monterey's*** management. Our responsibility is to express an opinion on the ***Housing Authority of the County of Monterey's*** compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in "Government Auditing Standards," issued by the Comptroller General of the United States, and *OMB Circular A–133, Audits of States, Local Governments, and Non–Profit Organizations*. Those standards and OMB Circular A–133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the ***Housing Authority of the County of Monterey's*** compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the ***Housing Authority of the County of Monterey's*** compliance with those requirements.

In our opinion, the ***Housing Authority of the County of Monterey*** complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended June 30, 2007.

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Internal Control Over Compliance

The management of the ***Housing Authority of the County of Monterey*** is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the ***Housing Authority of the County of Monterey's*** internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance Accordingly, we do not express an opinion on the effectiveness of the ***Housing Authority of the County of Monterey's*** internal control over compliance.

A *control deficiency* in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by any entity's internal control.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, s defined above

This report is intended for the information and use of the Board of Commissioners, management, federal awarding agencies, the Controller's Office of the State of California and the other grantors and not intended to be and should not be used by anyone other than those specified parties.

March 23, 2008

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HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2007

I. SUMMARY OF INDEPENDENT AUDITOR'S RESULTS

Financial Statements

Type of auditors' report issued:			Unqualified
Internal control over financial reporting:			
• Material weakness(es) identified?	___ Yes	X	No
• Significant deficiencies identified that are not considered material weakness(es)?	___ Yes	X	None Reported
Noncompliance material to financial statements noted?	___ Yes	X	No

Federal Awards

Internal control over major programs:			
• Material weakness(es) identified?	___ Yes	X	No
• Significant deficiencies identified that are not considered to be material weakness(es)?	___ Yes	X	No
Type of auditors' report issued on compliance for major programs:			Unqualified
• Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of Circular A–133?	___ Yes	X	No

Identification of Major Programs

CFDA Number(s)	Name of Federal Program or Cluster		
14.871	Section 8 Housing Choice Voucher Program	$	29,137,006
14.182 and 14.856	Section 8 Project–Based Cluster	$	1,908,803
14.872	Public Housing Capital Fund	$	1,024,103

Dollar threshold used to distinguish between type A and type B programs:		$	989,366
Auditee qualified as low–risk auditee?	X Yes	___	No

II. FINDINGS RELATING TO THE FINANCIAL STATEMENT AUDIT AS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS

A. Reportable Conditions in Internal Control

None

B. Compliance Findings

None

III. FINDINGS AND QUESTIONED COSTS FOR FEDERAL AWARDS

There are no findings and questioned costs.

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDING JUNE 30, 2007

There were no findings in the prior year.