



HUD FAMILY SELF- SUFFICIENCY PROGRAM

**FSS Final Rule & Escrow
Frequently Asked Questions
(FAQ) Document**

August 24, 2022



**U.S. Department of
Housing and Urban Development**

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FAQ on FSS Final Rule Implementation

FSS Resources Page: https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/fss

FSS Mailing List GovDelivery signup link:
<https://public.govdelivery.com/accounts/USH-UDPIH/signup/30989>

Email us: FSS@HUD.gov

General Questions

Gen1

Q. (For PHAs) What if I don't know who my Field Office representative is?

A. It's the same person that is your PHA's field office representative for everything else – someone in your agency knows. If you can't figure it out, email FSS@hud.gov

Gen2

Are you still doing FSS waivers due to COVID?

A. Yes.

<https://www.hud.gov/sites/dfiles/PIH/documents/Round6FAQsfinal.pdf>

GA11. I have a Family Self-Sufficiency (FSS) program participant who is at the end of their two-year Contract of Participation (CoP) extension. Can I use the PH and HCV-6 waiver described [PIH Notice 2020-13 REV-1](#) to extend their CoP for longer than 7 years?

GA11A. No. The authority made available under the CARES Act and implemented through PIH Notice 2020-13, REV-1 only allows you to consider COVID-19 as “good cause” in granting the normal extension (up to 2 years). The CARES Act did not provide HUD the authority to offer a blanket waiver to 24 *CFR* 984.303(d), which states that extensions may be up to 2 years. If a PHA has a participant who is nearing the end of the second year of extension and, except for COVID-19, would meet the requirements for graduation, please follow the standard process to request a waiver through the HUD field office, which then submits a recommendation to HUD Headquarters (HQ), as described in [PIH Notice 2018-16](#).

Gen3

Q. Does all of this apply to public housing AND vouchers?

A. Yes. The PH and HCV FSS programs have been combined since FY14. All of the provisions of the Final Rule apply equally to all types of rental assistance that can be served by FSS (with a few small exceptions for the program design for PBRA owners – see the regulations at 24 *CFR* 877.)

24 *CFR* 984.101(b)

- Section 9 – Public Housing
- Section 8(o) - HCV including all special purpose vouchers
 - FUP, FYI, VASH, EHV, Mainstream, etc.
 - PBV
 - Section 8(y) – Voucher homeownership
- Section 8 Moderate Rehabilitation for low-income families
- Moderate Rehabilitation Single Room Occupancy for homeless individuals under 24 *CFR* part 882.
- Project-Based Rental Assistance (PBRA) also known as Multifamily

Gen4**Q. What is considered low income, very low income, and extremely low income?**

A. This is not an FSS-specific definition.

- Low-income means 80% Area Median Income (AMI).
- Very low income means 50% AMI.
- Extremely Low-Income means 30% AMI.

Gen5 (See 24 CFR 887.107 - Cooperative Agreements)**Q. Must a PHA enter into a cooperative agreement with a PBRA owner if requested?**

A. No. It is up to a PHA whether they would like to enter into a cooperative agreement with a PBRA owner and both entities must agree to the terms of the agreement.

Gen6 (See 24 CFR 984.303 - Contract of Participation (CoP))**Q. If a PBRA owner inherits former Public Housing residents that have an active FSS Contract of Participation in a repositioning deal, must they establish a PBRA FSS program and continue to serve those residents until their CoPs are completed?**

A. Yes (see [RAD Notice, Revision 4](#))

Gen7 (See 24 CFR 984.303 - Contract of Participation (CoP))**Q. If a PHA does not choose to enter into a cooperative agreement with a PBRA owner that is in this situation, does that absolve the PBRA owner from having to serve those FSS participants?**

A. No.

Gen8**Q. For how many years are PHAs required to retain an FSS participant file after an FSS Exit?**

A. Government Accounting Principles and the FSS Grant Agreement require grant files to be retained for at least three years after the period of the grant. There is no regulation regarding participant files.

Gen9 (See 24 CFR 984.103 - Definitions)

Q. Is there any additional language regarding responsibilities of the FSS Coordinator with regard to standard housing functions such as processing re-certifications (annual, interim, portability/moves)?

A. The new regulation (24 CFR 984.103) includes a definition of Program Coordinator –

- **FSS Program Coordinator** means the person(s) who runs the FSS program. This may include (but is not limited to) performing outreach, recruitment, and retention of FSS participants; goal-setting and case management/coaching of FSS participants; working with the community and service partners; and tracking program performance.

NOFOs and Grant Agreements for several years have included the following language:

- FSS Coordinators may **NOT** engage in non-FSS activities (i.e. standard housing activities like re-certifications and HQS) **unless the grantee has obtained approval from the field office (and then, only for FSS participants)**
- Funds under this FSS NOFO may not be used for performance of routine PH, PBRA, or HCV program functions. However, an FSS coordinator may perform some PH, PBRA, or HCV functions, such as annual reexaminations for FSS participants, *if it enhances the effectiveness of the FSS program*. This provision is to be employed only to the extent that these functions enhance, and do not interfere with, the FSS Coordinator’s ability to fully fulfill the role of the FSS Program Coordinator as their primary work. FSS Coordinator positions must not be used to balance or fill in for gaps in traditional staffing. Performance of routine HCV, PBRA and/or PH functions for non-FSS families does not enhance the effectiveness of the FSS program and is therefore an ineligible use of FSS funds. If an FSS coordinator will perform some PH, PBRA or HCV functions, a request must be submitted to HUD explaining how performing such duties enhances the FSS program. Prior HUD approval is required for an FSS coordinator to perform such functions. Further information may be provided in the grant agreement or through other means.

Gen10

Q. You mentioned HOTMA. What’s that?

A. It’s a separate piece of legislation, Housing Opportunity Through Modernization Act. Section 102 makes changes to regulations on rent calculation. FSS Coordinators should be aware of the potential implications. You can find more information in the [Federal Register](#) publication of the Proposed Rule.

Gen11

Q. Why would a family WANT to switch to the new CoP?

A. Several reasons... here are some big ones

- Only have to be “welfare-free” at the time of graduation, not for 12 months as it is under the old Rule.
- Monthly escrow credits can continue to grow if a family is between 50% and 80% AMI (under the old rules, they were capped at whatever the amount was when they hit 50% AMI).
- The base CoP is now longer – the initial end date is 5 years from the first re-certification after the effective date.
- The definition of “good cause” for an extension is broader.
- The Head of FSS Family doesn’t have to be the HoH for rental assistance purposes.
- The possibility of “Termination with Escrow Disbursement” in certain circumstances.

Gen12**Q. Can we make participation in FSS a requirement of our HCV Homeownership program?**

A. Yes. However, you CANNOT make setting a goal of being homeownership ready a requirement of your FSS program.

Gen13**Q. How would current participants who are on EID be affected by going with new the CoP?**

A. They would not be affected. The Final Rule indicates that when setting the baseline, the actual amount of earned income should be counted. However, existing participants would not have their baseline re-set if/when they converted to the new CoP/new rules.

Gen14**Q. We do not have to complete the FSS Grant Program Review if we do not receive nor want to apply for a Grant?**

A. If you do not have or want HUD funding, you do not need to submit a NOFO application. However, all programs, funded or not, are required to adhere to the new FSS regulations and are required to submit an updated FSS Action Plan.

Gen15**Q. Did you say that if you are a voluntary program who is not yet funded, but you do have an active program (self-funded), you do not have to submit your action plan until you are funded? Do the other stipulations regarding contracts apply?**

A. ALL currently running FSS programs, funded or not, MUST have a HUD-approved updated FSS Action Plan in place before enrolling new families. All regulations apply to funded and non-funded programs. If you do not have an FSS program currently, but are interested in applying for funding to start an FSS program, you do not have to have an FSS Action Plan approved prior to your application. You will have time to do that after awards.

Gen16**Q. Is Trauma Informed Care a requirement for the new rule?**

A. This is not a requirement, but it is a strong recommendation. Trauma-Informed Care is not a HUD model. It was created by the Department of Health and Human Services and has been implemented in communities across the country. There is a plethora of resources available on the web.

(New!) Gen17**Q. Do you have a high-level summary of all of the changes in the Final Rule?**

A. This went out to the FSS listserve. Below is a high-level overview of the major changes. Please read the whole notice for more information and details.

Funding

- Expands eligibility for program funding from only public housing and voucher programs to now include multifamily (Project-Based Rental Assistance) owners as well
 - PBRA owners have been eligible to run their own programs without HUD funding since the FY15 appropriations
- Codifies Funding Formula: 1:25 ratio for first coordinator and 1:50 ratio for each additional coordinator
- Requires HUD to fund renewals before new/expansion

Enrollment

- Expands eligibility for program enrollment from only the Head of Household to now any adult member of the household (Head of FSS Family) as designated by the family
 - One Contract of Participation (CoP) per family
 - Escrow goes to the adult family member who signed the CoP
- ALLOWS Section 8(y) – HCV Homeownership to be in the FSS program
- Base Contract of Participation (CoP) is now 5 years “from the next rent certification after enrollment” (as opposed to 5 years from effective date)
- “120-day rule” is permanently gone. At enrollment, the most recent effective rent certification must be used to establish the baseline

Escrow

- Adds definitions for “Baseline Annual Earned Income,” “Baseline Monthly Rent,” “Current Annual Earned Income,” “Current Monthly Rent”
- Removes cap on increases in escrow monthly savings for families making between 50% and 80% of AMI
- Forfeited Escrow is no longer returned to the PHA, thus eliminating an incentive the PHA may have to not graduate families. Forfeited escrow now goes to a pot “to be used for the benefit of FSS Families” so may help with barrier reduction

Extensions

- Expands “good cause” for extensions to include participants who are actively engaging in pursuing self-sufficiency goals (not only those who have had an impact that was out of their control)

Graduation

- The “30% rule” as an option for graduation has been removed
- “Welfare-free” requirement is now at graduation, no longer 12 months
- Adds a disposition of the CoP - “Termination with FSS Escrow Disbursement” for families that become disabled or that port in situations where they cannot continue to FSS program, but have not yet met all required goals, etc.

See a list of policies that need to be made at the local level in the FSS Action Plan section.

Implementation Requirements

Imp1

Q. What must a PHA/PBRA Owner with a current FSS program do in order to start using the new FSS Regulations?

- A.
 1. Update their existing FSS Action Plan (*24 CFR 984.201*) to reflect the new regulations and include updated policies
 2. Submit to HUD for review with Completed Checklist
 3. Update FSS Action Plan approved by HUD
 4. Start enrolling new participants under the new rules and CoP
 5. Offer existing participants the opportunity to sign the updated Contract of Participation (each family that wants to be under the new regulations must sign an updated CoP)
 - Effective date of the CoP will not change.
 - End date of the CoP will be updated to be 5 years from the date of the first re-certification of income after the original execution date.
 6. At next rent re-certification, use the new escrow calculation.

In order to update your FSS Action Plan, you should refer to the [FSS Action Plan Checklist](#) (updated for the Final Rule) posted on the FSS Resources page. Additionally, HUD will be posting a Sample FSS Action Plan (expected in July). The Sample FSS Action Plan will reference the updated FSS Promising Practices Guidebook. It is not required that you use this format, but it may be helpful. In the meantime, you may wish to reference the [Original Sample FSS Action Plan checklist](#) that was written for the old rule and contains references to the [Original FSS Promising Practices Guidebook](#).

The required contents of the FSS Action Plan (*24 CFR 984.201(d)*) have not changed. However, the regulations on Family Selection Procedures (*24 CFR 984.203*) have been updated. The new regulations also include a list of policies (*24 CFR 984.201(d)(13)*) that must be made at the local level and if not included in the FSS Action Plan document itself, must be submitted along with the FSS Action Plan.

This may include, and is not limited to:

1. Policies related to the modification of goals in the ITSP;
2. The circumstances in which an extension of the Contract of Participation may be granted;
3. Policies on the interim disbursement of escrow, including limitations on the use of the funds (if any);
4. Policies regarding eligible uses of forfeited escrow funds by families in good standing;
5. Policies regarding the re-enrollment of previous FSS participants, including graduates and those who exited the program without graduating;
6. Policies on requirements for documentation for goal completion;
7. Policies on documentation of the household's designation of the "head of FSS family;" and
8. Policies for providing an FSS selection preference for porting families (if the PHA elects to offer such a preference).

Imp2

Q. By when must I submit an updated FSS Action Plan

A. The updated FSS Action Plans must be approved by HUD by November 14. Action Plans must be submitted by September 30, 2022 in order to allow HUD time to review by November 14. As long as you submit by that date, you will be considered in compliance unless/until your Plan is deemed not acceptable. At that time, you will need to make the required changes by the date indicated.

Imp3

Q. How do I submit the updated FSS Action Plan?

A. PHAs must submit their revised FSS Action Plans to the mailbox PHAFSSActionPlans@hud.gov by September 30, 2022. The subject line and attachment names must include the PHA name and number. The Action Plan must be accompanied by the completed FSS Action Plan Checklist. The cover sheet must be in a WORD format. PBRA owners should submit their revised FSS Action Plan and completed Checklist to their servicing incoming mailbox

For PHAs: When submitting Action Plans and Checklists to PHAFSSActionPlans@hud.gov, please include your PHA code in the subject of the email and in the document name of any attachments.

Imp4

Q. What happens if I don't submit by the due date?

A. If you do not submit your Updated FSS Action Plan by the required due date, you will no longer be in compliance with the program requirements and your current and/or future NOFO funding may be frozen until you are in compliance.

Imp5

Q. How long will HUD take to review my updated FSS Action Plan?

A. We will do our best to review within 45 days of receipt.

Imp6

Q. (for PHAs) Will updating my FSS Action Plan be considered a significant amendment? Will it have to be approved by my Board? Will we need a public hearing?

A. Per 24 CFR 903.7(r), PHAs must identify what is considered a significant amendment to their PHA Plan, so the answer will vary based on the definition adopted by the PHA. If updating the FSS action Plan is considered by the PHA to be a significant amendment, the PHA must revise their Annual Plan or 5-Year Plan in the case of qualified PHAs. Revisions to the PHA Plan require a meeting of the board of directors (24 CFR 903.21(a)(1)) and the meeting must be open to the public. The process for obtaining public comment on revisions to the plan can be found at 24 CFR 903.17. Furthermore, all information relevant to the public hearing must be made available by the PHA 45 days before the public hearing for inspection by the public. This process also applies to qualified PHAs that typically only submit a Five-Year Plan must annually hold a public hearing. To minimized delay, it is permissible for the FSS Action Plan amendment and the 5-Year Plan or Annual Plan amendment to take place concurrently.

Imp7

Q. Can I continue enrolling new participants after June 16, when the new rule is effective, but before my updated FSS Action Plan is approved?

A. No. You must stop enrolling new participants after June 15 until your new FSS Action Plan has been approved.

Imp8**Q: Does the Rule apply retro-actively?**

A: No. However, if you would like for the new rules to apply to existing participants, after your FSS Action Plan is approved, you must, person-by-person, sign a new Contract of Participation (CoP) to indicate that you have discussed the new rules with the participant and they want to have the new rules apply to them.

Imp9**Q. Once the FSS Action Plan is updated and the new FSS Contract of Participation is in effect for your PHA/organization, are we required to offer the new contract to our FSS clients that signed up under the old contract?**

A. It is optional. If the participants do not switch, they will remain under the old FSS CoP unless/until they switch over to the new CoP. We strongly encourage you to encourage your participants to switch over because we believe the new regulations are better for participants and it will be more consistent for your program as a whole.

Imp10**Q. If an existing participant signs a new CoP, what happens to the effective and end dates?**

A. The effective date will not change. The end date of the CoP will change, per the new 24 CFR 984.303(c) which states that “each FSS family will be required to fulfill CoP obligations no later than 5 years after the first re-examination of income after the execution date of the CoP.”

Example 1

9. CoP executed (signed) 6/12/2018
10. CoP Effective Date 7/1/2018
11. Initial End Date 6/30/2023 (5 years after effective date)
12. Switch to new CoP 8/20/2022 - Amended CoP Effective Date 7/1/2018 (same as initial)
13. Go back and check PIC records... 1st re-certification after 6/12/2018 = 12/1/2018 (5 years from 1st re-certification of income after Execution Date)
14. Amended End Date 11/31/2023

Example 2

1. CoP executed 4/15/2016
2. CoP Effective Date 5/1/2016
3. Initial End Date 4/30/2021 (5 years after effective date)
4. 2 year extension granted - New End Date 5/31/2023
5. Switch to new CoP 8/20/22 – New CoP Effective Date 5/1/2016 (same as initial)
6. Go back and check PIC records... 1st re-certification after 4/15/2016 = 4/1/2017
7. Amended End Date 3/31/2024 (5 years from 1st re-certification of income after Execution Date = 3/31/22 PLUS 2 year extension)

Imp11**Q. If a participant signs a new CoP under the new rules, can their escrow be adjusted retro-actively?**

A. No, but at the next rent re-certification, the new escrow regulations should be used.

Imp12

Q. What happens if an existing participant does not want to sign a new CoP?

A. They would remain under the old regulations until their CoP is completed (graduation or exit)

Imp13

Q. Does that mean that a PHA or owner with an existing program might have to manage two different escrow calculations if some families do not switch to the new CoP?

A. Yes

Imp14

Q. After our Updated FSS Action Plan is approved, when we are enrolling new families, can they choose to use the old rules?

A. No.

Imp15

Q. Is there a deadline by which existing participants must sign a new CoP if that's what they want to do?

A. No. An existing participant may switch over to the new rules by signing a new CoP at any time during their Contract.

Imp16 and Imp17 pertained to MTW and were moved to the MTW section

Imp18

Q. How will these changes get into our software?

A. Software vendors will need to update their product to comply with the new regulations.

Imp19

Q. Am I reading this correctly? We have to stop enrolling new participants as of June 16, 2022 until we have an approved updated FSS Action Plan?

A. Yes.

Imp20

Q. Can I keep enrolling new FSS participants after June 16 using the old CoP and then switch them to the new CoP once our new Action Plan is approved?

A. No.

Imp21**Q. But won't that significantly impact our Participant numbers for the NOFO?**

A. No. Remember, unless things change, the NOFO looks at all enrollment, progress and exit reports for the prior calendar year. So, for the upcoming NOFO, which will be the FY22 NOFO, it will look at CY2021. For the FY23 NOFO, remember, it's ALL enrollments, progress AND exit reports. So that means, as long as you touched the minimum number of participants across the course of the year, you will have met the requirements of your grant agreement.

Imp22**Q. What happens to the clients that signed contracts this month that won't be effective until July? Or to the clients that are scheduled for briefings this month?**

A. If the participant has signed the CoP prior to June 16, the CoP (under the old form) will be effective July 1, 2022. However, PHAs/owners should not have potential participants sign the old CoP after June 15. You will need to wait until your updated FSS Action Plan has been approved, then you can start having participants sign the new CoP.

Imp23**Q. If we start working with someone now, and their rent increases before the Action Plan is approved, can we use the rent they were at when we started working together for their base rent and not what it is at the time the action plan goes into effect?**

A. No.

Imp24**Q. What if you have a re-certification that is due before your action plan has been approved? Would you just continue to use the current escrow calculation?**

A. Yes.

Imp25**Q. What about ports? Can I continue to enroll them?**

A. Yes. Ports are continuing on their original CoPs, so it's not technically a new enrollment. You may continue to treat them as you normally would have between June 16 and when your updated FSS Action Plan is approved.

Imp26**Q. What about FSS participants who convert from Public Housing to HCV or PBV or PBRA due to RAD or some other reason? Can we continue to enroll them?**

A. Conversions are continuing on their original CoPs, so it's not technically a new enrollment. You may continue to treat them as you normally would have between June 16 and when your updated FSS Action Plan is approved.

Imp27

Q. What about PBV units that have a FSS requirement? Are they unable to lease up those units at this time?

A. There should be no PBV units with an FSS requirement. Participation in FSS may not be mandated. FSS may be utilized to satisfy self-sufficiency requirements in PBVs that have such requirements, however a PHA cannot require FSS with no alternative means to meet the self-sufficiency requirement attached to the unit.

Imp28

Q. Once the Action Plan has been submitted and approved, can we enroll new participants even if our software has not been updated?

A. Yes. It is not a requirement of the program to use any particular software or any software at all. The requirements are to calculate the escrow correctly (could be via software or via the sample escrow worksheet or any other means) and report to PIC correctly.

Imp29

Q. Our organization oversees the FSS program at several PHAs/PBRA sites. Can we submit one Action Plan and just list all of the PHAs/sites to which it pertains?

A. No. Each program needs a separate Action Plan because the information in 24 CFR 984.201(d)(1-3)(demographics, etc.) will be different for each program. 24 CFR 984.201(d)(7)(FSS Activities and Services) may also be different. However, if you would like to add a cover sheet that indicates a list of PHAs/agencies that will have the same policies other than those sections with a request to have those Action Plans reviewed together, you may. This may help to expedite the review.

Imp30

Q. Can you discuss the relationship between the FSS Action Plan approval from HUD and the PHA Annual Plan. Can we submit the FSS Action Plan to HUD prior to submitting our PHA Annual Plan?

A. 24 CFR 903.7(l) indicates that the annual plan must describe FSS activities. PHAs will need to amend their annual plans in accordance with 24 CFR 903.21. If the FSS changes constitute a significant amendment to the PHA plan as determined by the PHA's own plan), then the PHA follows requirements in 903.21.

Imp31

Q. Can PHA's make a policy to require existing participants to sign the new contract?

A. No, however we encourage you to encourage your participants to switch over because we believe the new regulations are better for participants and it will be more consistent for your program as a whole.

Imp32

Q. Can the new Action Plan be completely different from what we currently have, or does it have to show the differences from our old Action Plan and the new Action Plan?

A. Yes, your Action Plan can be completely different, and no, it does not have to show differences between your new plan and your old. More importantly, your updated Action Plan should comport with the [FSS Action Plan Checklist](#) requirements.

Imp33

Q. We have a family where the Head of Household (HOH) recently passed away- the daughter will now become the new HOH. My question is how do we change the daughter to the head if we cannot create a new contract until we get our FSS Action Plan approved by HUD.

A. This would not be a new contract. The daughter would assume the existing CoP, with the same start and end dates, and under the old rules and CoP. You would create an ITSP for the daughter.

Imp34

Q. Can you graduate tenants from the program if their FSS contract is up before our updated FSS Action Plan is approved??

A. Yes, you must continue to serve and graduate families who are already enrolled under existing CoPs.

Imp35

Q. We have a combined Action Plan for both FSS and ROSS, noting in the plan where there are differences. When updating the Action Plan, can we continue to utilize the same action plan for both programs?

A. ROSS does not require an Action Plan. The FSS Action Plan should be specific to FSS.

Imp36

Q. Is this the time to make other changes to the Action Plan OR are you only looking for content related to the New Rules?

A. You are required to update your existing FSS Action Plan (24 CFR 984.201) to reflect the new regulations, we also encourage you to take this time to explore additional opportunities for program improvement.

Imp37

Q. Where can we find demographic information for the FSS Action Plan?

A. Family size, employment status, income, ages, disability status and similar information is collected on the HUD-50058 for PHAs and HUD-50059 for Multifamily. You should be able to access this information from your property management system that reports into PIC or TRACS.

Imp38

Q. Can we offer a preference for Black/Indigenous People of Color (BIPOC)?

A. No. This would go against Fair Housing rules.

Imp39

Q. What is meant by program size? The size of our FSS program or how many vouchers our PHA has?

A. The size of your FSS program.

Imp40

Q. Can we use the Push, Pull, Lift method to determine maximum program size as the degree of case management may necessitate a lower max at times?

A. To determine your program size, you'll want to look at three things.

1. Do you still have any mandatory program slots left over from an original mandate? If yes, then that's your smallest program size unless you have an exception from your field office to run a smaller program per 24 CFR 984.105(b)(2). OR
2. Are you funded via a NOFO to run your program? The minimum number of participants required by the NOFO for the number of coordinators for which you are funded is your smallest program size.

You are free to set your program size bigger using any method you wish to evaluate the capacity of your staff and partners.

Imp41

Q. The FSS Action Plan requires that we include a timetable for program implementation. We've been running a program for many years. How does this apply?

A. This question has been in the statute since the beginning, so it's always been required in the Action Plan. We did talk about in the webinar, though, that this piece of statute and reg was really targeted to new programs and to programs that have mandatory slots. If you do still have a mandatory program, this question is where you would indicate how you plan to meet that mandate. If you never had a mandatory program or you've already met the requirements, you'd explain that in this question and explain how you will meet/keep filled your voluntary program size.

(New!) Imp42

Q. Do Joint FSS Programs need a separate FSS Action Plan for each PHA?

A. Joint FSS programs need to have a separate FSS Action Plan for each member PHA. However, they should all have the same policies. The reason for the separate FSS Action Plans is that each PHA may have different demographics and mandatory program sizes remaining. So, basically, do one plan and submit it 5 times separately. In each separate one, answer the questions that pertain to the agency separately, but all of the policies the same. Indicate at the top that this is a joint FSS program with [list the other agencies] so the reviewer can review them all together.

(New!) Imp43

Q. Can a PHA have a combined plan for Public Housing and HCV?

A. YES! The PH and HCV programs have been combined since FY14. PHAs SHOULD have ONE plan that covers PH and HCV. See 24 CFR 984.201(f).

Participation

Who can participate? (See 24 CFR 984.101 - Purpose, Applicability, and Scope)

Par1

Q. Who can be in my FSS program?

A. Prior to FY2014, HUD had two separate FSS programs – one for HCV (and all types of special purpose vouchers) and one for Public Housing. In FY2014, HUD combined the two programs into one. Every existing FSS program has been regulatorily able to serve both HCV and Public Housing since FY2014. If your PHA has been serving only one or the other, that has been a local choice. This has also included Project-Based Vouchers as well.

Under the [RAD Notice](#), PBRA owners were required to continue to serve all Public Housing residents whose units had repositioned to Project-Based Rental Assistance (PBRA, also known as Multifamily) until their Contracts of Participation ended. Post-RAD PBRA owners with FSS programs were required to report under the PBRA FSS reporting rules. PBRA owners could establish cooperative agreements with PHAs to serve RAD-affected PBRA FSS participants using HUD FSS NOFO funding.

Starting in FY2015, PBRA owners were authorized to start their own FSS programs without HUD funding. PHAs could not serve non-RAD-affected PBRA residents who wanted to be in FSS.

Now, under the Final Rule, PHAs with HUD NOFO funding starting in FY2022 are able to serve any PBRA FSS program participant with HUD NOFO funding. This assumes that the PBRA owner has a cooperative agreement with the funded PHA.

Par2

Q. So what about Voucher Homeownership (Section 8(y))? (See 24 CFR 887.101(b) Purpose, Applicability and Scope)

A. Families with Homeownership Vouchers may enroll in FSS and families that transition into Voucher Homeownership may remain in FSS.

Par3

Q. Does it count for Foster Stable Housing Opportunity (FSHO) if another adult chooses to be the Head of FSS Household?

A. No. The eligible youth receiving Family Unification Program (FUP) or Foster Youth to Independence (FYI) voucher assistance must be the person enrolled in and in compliance with the FSS program (or meet other requirements outline in FSHO) in order to have their voucher extended on the basis of participation in FSS. The FUP/FYI youth may not have their voucher extended on the basis of another household member's participation in FSS.

Par4

Q. Can families in Low-Income Housing Tax Credit (LIHTC) units be in FSS?

A. No, unless there's also a voucher attached to the unit. LIHTC rents are otherwise not income-based.

Par5

Q. Can families served by McKinney-Vento Shelter-Plus-Care rental assistance be in FSS?

A. No.

Par6

Q. Can families that graduated from FSS re-enroll? What about families that were in FSS but didn't graduate? What about families where the FSS Head of Household graduates and leaves the household but now another adult family member wants to be in FSS?

A. The Final Rule did not change this – this is a policy to be made at the local level and codified in the FSS Action Plan. See *24 CFR 984.201(d)(13)(v)*. Please refer to the FSS Guidebook for policy considerations.

Par7

Q. Who can apply for HUD FSS NOFO funding starting with the FY2022 NOFO funding?

A. PHAs and PBRA owners. Please CAREFULLY READ each year's NOFO for information on other eligibility requirements, that year's priorities, and how to apply.

Par8

Q. Who gets priority? (See 24 CFR 984.107 - FSS Award Funds Formula)

A. The statute includes a funding priority that states that HUD must fund renewal grantees that meet all applicable requirements first. Then, HUD may fund new grantees or add new positions to existing grantees.

Par9

Q. How will all of this affect the participant count for NOFO competition purposes? (Updated)

A. It won't. For the FY2022 NOFO (the one coming out this summer) we are looking at participants (enrollments, progress, and exit reports) from CY2021. For FY2023, we will look at the same report for the period of CY2022. There's no need to stop working with or graduating any FSS participants due to this rule change. If a PHA adds PBRA participants that will not be reflected in PIC, they will be able to submit a report documenting those participants, as has been the case with RAD-affected PBRA participants for the last several years.

Par10**Q. What does the Final Rule say about Participant-to-Coordinator Ratios? (See 24 CFR 984.107(a) - FSS Award Funds Formula)**

A. The new statute codified the same ratios that HUD had been using in the NOFOs for years.

- 25:1 for the first coordinator
- +50 for each additional coordinator

This doesn't mean that every PHA has been or will be funded for the full number of coordinators that their participant count supports.

This is the minimum qualifications. PHAs and owners can and do run programs with higher participant-to-coordinator ratios – many quite successfully.

Number of FSS Families Served During the Target Period	Number of Positions Supported
15-24 families	1 part-time position
25-74 families	1 full-time position
75-124 families	2 full-time positions
125-174 families	3 full-time positions
175-224 families	4 full-time positions
225-274 families	5 full-time positions
275-324 families	6 full-time positions
325-374 families	7 full-time positions
And so on in increments of 50	

Par11**Q. How will the new rule COP affect the Foster Youth Initiative (FYI) clients who joined FSS already? I believe FYI is a timed program of 3 years and by joining FSS they receive an additional 24 months.**

A. Under the Foster Stable Housing Opportunities (FSHO) amendments, a person with a FUP-Y or FYI voucher who enrolls in FSS or MTW self-sufficiency program may extend their voucher from 36 months up to 60 months. The Final Rule does not change that. However, participants in the FUP-FSS Demonstration are not subject to the time limit under FSHO and may extend their voucher for as long as they are in the FSS program, so the Final Rule's changes on the base timeline of the CoP as well as the expanded definition of "good cause" for extensions may allow a FUP-FSS Demonstration participant to extend the life of their voucher for longer.

Par12**Q. Can family selection be based solely on a person's willingness to participate? We include anyone who would like to enroll.**

A. You may choose to enroll everyone who asks to enroll. If you are going to cap your program at a certain number of participants at any one time, you must have a wait list policy in place that adheres to the new regulations.

(New!) Par13

Q. For the purposes of the FUP-FSS Demonstration, at what point is a FUP youth considered to be enrolled in FSS and eligible for an extension of their FUP voucher? Is it sufficient for a FUP youth to sign the Contract of Participation (CoP) prior to the expiration of their voucher assistance or does the CoP also need to become effective prior to the expiration of their voucher assistance?

A. A FUP youth and the PHA may enter into a CoP at any time. Under the FUP-FSS Demonstration, a FUP youth may receive an extension of their voucher assistance if the execution date of the CoP is prior to the expiration of their FUP voucher, even if the effective date of their CoP falls after the expiration of their FUP voucher.

Contract of Participation

Contract of Participation (24 CFR 984.303)

CoP1

Q. Has the new Contract of Participation form been published?

A. Yes – on the FSS Resources page - [HUD-52650 FSS Contract of Participation](#)

CoP2

Q. Do we have to use that exact form for the CoP or ITSP or can we translate it into another format like we could with the old form?

A. You may translate it into a different format, as long as it contains all of the same information that the form contains.

CoP3

Q. May we use electronic signatures on CoPs and other FSS forms?

A. Yes, following the same rules for electronic signatures that apply to other resident forms. (See COVID FAQs OC15, OC7, OC58 ([COVID-19 Related FAQ Round 7](#)))

CoP4

Q. Will the new CoP be available in all of the languages in which the old one was available?

A. Yes. They will be posted on HUDClips.

(New!) CoP5

Q. What if a family likes some of the provisions of the new CoP, but some of the old. Can we create a hybrid?

A. No.

Contract of Participation – Who can Sign? (24 CFR 984.303(a)- Contract of Participation (CoP))

HoH1

Q. Who can sign the new CoP?

A. Any adult member of the household.

HoH2

Q. Does the person who signs the FSS CoP have to become Head of Household for rental purposes?

A. No.

HoH3

Q. Can there be more than one CoP for a household at a time?

A. No, but more than one adult may have an ITSP (this is not a change)

HoH4

Q. Who decides which adult in the household gets to sign the CoP?

A. The household.

HoH5

Q. What if the household can't decide?

A. It's up to them to work it out.

HoH6

Q. How do I have to document that the household agreed on the person to sign the CoP?

A. That's a policy the PHA/owner must set. See 24 CFR 984.201(d)(13)(v).

HoH7

Q. If it's not the HoH for rental purposes who signs the CoP, who gets the escrow?

A. The FSS Head of Household (the person who signs the CoP) gets the escrow.

HoH8

Q. Who is responsible for meeting the requirements of the CoP? (See 24 CFR 984.303(a)-(b)(1), (2) and (4))

A. The person who signs it is responsible for seeking and maintaining suitable employment. The entire household must be welfare-free at the time of graduation and the goals on the ITSP for every family member who has one have been completed.

HoH9

Q. Can the family change the Head of FSS Household during the period of the CoP?

A. Yes, but the start/end dates and baseline of the CoP would not change.

HoH10

Q. If more than one adult is participating in the FSS and one of them wants to withdraw from the program can the remaining FSS participant take over the CoP if they are not the one that signed?

A. Yes. They would take over the CoP with the same start and end dates.

HoH11

Q. If a current FSS family (old CoP), wants to sign the new contract - but they want to switch another member of the family to become the "head" of the contract. How would that play out?

A. They may designate any adult family member to sign the new CoP.

(New!) HoH12

Q. CFR 984.103 and 984.303 -- Is there a best practices/sample form on how to document "Head of FSS Family?"

A. No. We have not issued a form (and do not plan to). We may include promising practices in the upcoming guidebook, however, this is new for everyone, so we don't have any yet.

(New!) HoH13**Q. Can a non-citizen sign the FSS CoP?**

A. For FSS, the Head of FSS Family (the signer of the Contract of Participation (CoP)) must be an eligible recipient of public housing or Housing Choice Voucher (HCV) assistance. As explained below, that doesn't mean the Head of FSS Family necessarily has to be a citizen, but the Head of FSS Family must be an immigrant eligible for public housing or HCV assistance to enroll in FSS.

Section 214 of the Housing and Community Develop Act of 1980, implemented by HUD at 24 CFR 5.500 – 5.528, applies to the public housing and HCV programs. Immigrants are eligible for public housing and HCV if they are residents of the U.S. and fall within one of the categories set out in Section 214(a) (42 U.S.C 1436a(a)) and 24 CFR 5.506. In general, the following persons are eligible immigrants:

1. Persons lawfully admitted for permanent residence;
2. Persons who have acquired permanent residence as a result of the discretion by the Attorney General;
3. Persons granted refugee or asylum status because of persecution, or fear of persecution on account of race, nationality, religion, political opinion, or membership in a particular social group;
4. Persons granted "parole status" by the U.S. Attorney General for emergent or public interest reasons; (Parole is a procedure which allows noncitizens to come to the U.S. without being granted an official admission status.)
5. Persons granted withholding of deportation or removal; (These persons are lawfully present because the Attorney General has withheld deportation/removal because of a threat to life or freedom in their country of origin.)
6. Persons granted temporary or permanent residence under the general amnesty provisions of the Immigration Reform and Control Act of 1986 based on having resided in the U.S. since before January 1, 1982;
7. Person who is a lawful resident in the United States, but a citizen of a United States territory.
8. Persons qualifying as victims of trafficking because they have been subject to a severe form of trafficking in persons such as sex trafficking, involuntary servitude, debt bondage, peonage, or slavery.

The fact that an immigrant lives in public housing or an HCV-assisted unit does not mean that they are eligible for the public housing or HCV programs. HUD's current regulations state that "mixed" household (i.e., a household with at least one eligible member and other ineligible members) are permitted to live in housing covered by Section 214 restrictions as long as the amount of assistance they receive is prorated based on the number of eligible household members. Furthermore, under HUD's current regulations, the eligible household member(s) does not need to be the head of household (HoH) and can be a minor child. In other words, it is possible for there to be a HoH in public housing or an HCV-assisted unit that is not themselves eligible for assistance.

(New!) HoH14**Q. If we change the Head of FSS Household mid-Contract, can the escrow be split?**

A. No. The escrow is issued to the Head of FSS Household that completes the Contract.

Contract of Participation – Start and End Dates**Date1**

Q. The Proposed Rule said something about the effective date being the same date the CoP is executed. What happened with that?

A. We heard you loud and clear that that doesn't make sense, so the Final Rule did not change the regulation that says that the CoP effective date is the first of the month following the execution of the CoP. See 24 CFR 984.103 Definitions – Effective Date of the Contract of Participation

Date2

Q. When we add the CoP expiration date (5 years after the first re-certification of income after execution) do we need to get a new participant signature or initials next to the date?

A. Both parties need to agree to the CoP term amendment. Amendments can be done in various ways—by crossing out dates and having both parties sign by the new date or by having both parties sign an amendment (paper attached to the original CoP) that states the new date. Either way, all changes need to be agreed to by both parties—and this agreement is shown by signing their names.

Date3 (See 24 CFR 984.303(c) - Contract of Participation)

Q. OK, so the new CoP has an end date of 5 years from the first income re-certification after the execution date of the CoP. Is that an interim or an annual?

A. Whichever comes first.

Date4

Q. What if the income re-certification does not result in a rent change?

A. Doesn't matter. It still sets the end date.

Date5

Q. What about administrative changes to the 50058 or 50059?

A. No, those don't count. It has to be an interim or annual re-certification of the family's income.

Date6

Q. What if your PHA has bi-annual or tri-annual re-certifications?

A. Then the base contracts for your FSS participants may be up to seven or even eight years long.

Date7

Q. Does that mean that we will be able to serve fewer people in our program, since the Contracts will be longer?

A. No. This is up to the PHA or Owner. Ideally, the longer a family is in the FSS program, the less assistance they need, because they have overcome barriers and have moved into stable employment, and are working on goals that require less support from the coaches/case managers. Consider employing a triage system that creates tiers of expected support. The less support a family needs, the more families a coordinator can have on their caseload. Some of our more successful programs have higher caseloads because they work more intensively with families when they need it, but don't burden themselves or their participant families with un-necessary meetings as they achieve initial goals and start to set more stretch goals that can be worked on more independently, after a plan is set.

Also remember that families don't have to stay on FSS the full length of their CoP. Currently, the average time in the program for graduates is approximately 3.5 years.

Date8

Q. What about the fact that PIC requires that the end date be included on the enrollment 50058 and that we get a flag if the CoP is longer than seven years?

A. Please see the [Update of warnings/errors in PIC FSS](#) posted on the [FSS Resources page](#).

Date9

Q. Will we not have an end date when we first execute the CoP?

A. Yes, that is correct. You will not have an end date at enrollment

Date10

Q. Can a PHA require that a recert be completed the very next month?

A. No. A re-certification cannot be required simply because a family enrolls in FSS. However, all other re-certification requirements apply.

Date11

Q. I understand the FSS Initial End Date is not reported on the FSS Enrollment Addendum because the date cannot be determined until the first re-certification of income after the CoP is executed... BUT... is the Initial End Date required to be reported to PIC? If yes... is the Initial End Date expected to be reported on an updated FSS Enrollment Addendum or on the next FSS Progress Addendum?

A. Yes. The Initial End Date should be included in the next Progress Addendum. See also the [Update of warnings/errors in PIC FSS](#) posted on the [FSS Resources page](#).

(New!) Date12

Q. If the CoP is effective the same day as a re-certification, does the five years start there, or 2 years later with the next recert (if there is not interims)? We do 2-year recerts as an MTW agency.

A. The CoP end date is 5 years from the first re-certification after the original execution date of the CoP. In your case the base CoP might be up to 7 years, and then extensions would be possible.

Example 1: (NOTE: The PHA performs annual certifications in this example)

- Current rent \$500
- Income determination made on 6/2/22 that rent will increase to \$600 (will be effective 7/1/22)
- CoP executed on 6/15/22
- CoP effective date is 7/1/22 (same date the rent goes up to \$600) -- CoP will reflect baseline rent of \$600 (because baseline is as of the effective date of the CoP)
- CoP term is [likely] until 6/30/28 (7/1/23 (assuming the next annual is the first recert after CoP execution) + 5 years)

Example 2: (NOTE: The PHA performs annual certifications in this example)

- Current rent \$500
- CoP executed 6/15/22
- Income determination made on 6/17/22 that rent will increase to \$600 (will be effective 7/1/22)
- CoP effective date is 7/1/22 (same date the rent goes up to \$600) -- CoP will reflect \$600 (because baseline is as of the effective date of the CoP).
 - CoP may have to be amended due to the rent re-cert that happened between the CoP execution and the CoP effective date.
- CoP term is [likely] until 6/30/28 (7/1/23 (assuming the next annual is the first recert after CoP execution) + 5 years)

Example 3: (NOTE: The PHA performs annual certifications in this example)

- Current rent \$500
- CoP executed on 6/25/22
- CoP effective date is 7/1/22 -- CoP will reflect \$500 (because baseline is as of the effective date of the CoP)
- Income determination made on 7/15/22 that rent will increase to \$600 (will be effective 8/1/22)
- CoP term is until 7/31/27 (8/1/22 (first recert after CoP execution) + 5 years)

(New!) Date13

Q. Is the Start Date (Effective Date) always the 1st of the month and the End Date always the last day of the month?

A. Yes.

Individual Training and Service Plans (ITSPs)

ISTP1

Q. Has the “welfare-free” goal changed? (See 24 CFR 984.303(b)(2) - Contract of Participation (CoP))

A. Yes. The old regs stated that the family had to be free of cash welfare assistance for 12 months before graduating. The Final Rule states that the family must be free of cash welfare assistance at the time of graduation (the 12-month requirement has been eliminated.)

ITSP2

Q. Can the PHA still set a mandatory goal that all families are welfare-free for 12 months?

A. No.

- 24 CFR 984.303(b)(2) indicates “Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals.”

ITSP3

Q. What’s the definition of “Suitable Employment”?

A. 24 CFR 984.303(b)(4)(iii)

- Determination of suitable employment. A determination of suitable employment shall be made by the PHA or owner, with the agreement of the affected participant, based on the skills, education, and job training, and receipt of other benefits of the household member, and based on the available job opportunities within the jurisdiction served by the PHA or in the community where the PBRA property is located. (underlines are new language in the Final Rule)

ITSP4

Q. Can the PHA/owner set mandatory requirements around the employment final goal? Like being employed for 6 months or a year or being employed at least 30 hours/week?

A. No. The PHA/owner may not set across-the-board mandatory requirements aside from the two statutory final goals (employment and welfare-free). Any other parameters around employment must be agreed to by the FSS family.

- 24 CFR 984.303(b)(2) indicates “Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals.”

ITSP5**Q. What about setting other goals required of every FSS family at a particular PHA/owner's program?**

A. No. The FSS Program may not institute across-the-board mandatory goals. If an FSS Program feels that some goals are critical for reaching self-sufficiency (e.g. financial coaching), they may strongly encourage the family to engage in those activities, but they may not make it a **requirement** for **everyone** in their program.

- 24 CFR 984.303(b)(2) indicates "Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals."

ITSP6**Q. But, that's going to make it harder to get families to engage!**

A. That's what coaching is about. Talk to participants about what their goals are, talk about how to reach those goals, the steps that are necessary, the resources that are available, and create buy-in. It works so much better than a mandate in the long-term anyway!

ITSP7**Q. Can a family stay on FSS solely to accumulate escrow?**

A. No. The Head of FSS Household must always be working on one or more goals.

ITSP8**Q. If we create our own ITSP (with the required HUD components), do we need to submit it to HUD for approval?**

A. No.

ITSP9**Q. Can FSS require homeownership?**

A. No, you are not allowed to make homeownership a requirement of all FSS participants.

(New!) ITSP10**Q. Would you suggest that only the HOH be able to receive Direct Assistance since they are the only one who has to be employed to graduate?**

A. No. The well-being of all of the members of the FSS household will contribute to the self-sufficiency of the entire household. An ITSP should be offered to any adult FSS Household member that wants to set goals. The welfare of children in the household should also be taken into consideration.

Escrow Calculation

Esc1

Q. Has the new Sample Escrow Calculation Worksheet been published?

A. Yes.

- [FSS Escrow Spreadsheet for PHAs](#)
- [FSS Escrow Spreadsheet for Project-Based Rental Assistance \(PBRA\) owners](#)

Esc2

Q. Are those Escrow Calculation Worksheets just samples? Can we still use our software to calculate escrow?

A. You will need to work with your software vendors to ensure that the software has been updated to conform with the new regulations.

Esc3 (Imp11)

Q. Might a PHA or owner with an existing program have to manage two different escrow calculations if some families do not switch to the new CoP?

A. Yes

Esc4

Q. So how is your software supposed to know which escrow calculation to use if a family is under old CoP versus new CoP?

A. Software vendors might want to build in that functionality.

Esc5

Q. What if we're an MTW agency that calculates escrow differently?

A. If you have modifications of the FSS escrow calculation or other incentives approved in your MTW Plan, then you should follow your approved plan. You will have to work with your software providers to ensure that it calculates correctly per your modifications.

Esc6

Q. Where does the information on the Escrow Calculation Worksheet come from?

A. The HUD-50058 Family Report. If you're not familiar with the HUD-50058, you can find it here. <https://www.hud.gov/sites/documents/50058.PDF>. Your PHA may have software that you use to input the same information. For multifamily properties, it comes from the HUD-50059.

Esc7

Q. Does unemployment count as Earned Income?

A. No. Earned income is all income items on form HUD 50058 column line 7f identified with one of the income codes for wage or business income: B, F, HA, M or W (this is not a change)

Esc8**Q. Setting baseline income – do we have to do a new income re-certification when we enroll a family in FSS?**

A. No. The “120-day rule” which required that an income re-certification was completed within 120 days before enrollment was eliminated two years ago via the appropriations law. It is now codified in regulation that baseline income is set using the most recent income re-certification that is in effect as of the effective date of the Contract of Participation. (*See 24 CFR 984.103 – Definitions – Baseline Annual Earned Income*)

Esc9**Q. OK, but what if we want to set a policy that says we do an income re-cert when we enroll a new family? Can we?**

A. No.

Esc10**Do we set the baseline at enrollment or at the first re-certification after the execution date of the CoP?**

A. At enrollment. This hasn’t changed.

Esc11**Q. What does 984.103(b) mean? - “In calculating baseline annual earned income, all applicable exclusions of income must be applied, except for any disregarded earned income or other adjustments associated with self-sufficiency incentives that may be applicable to the determination of annual income.”**

A. Under the new regulations, all earned income that had been disregarded due to a self-sufficiency program (such as EID) would be INCLUDED when the baseline is set. That does not mean that the participant’s rent would change... it just sets the baseline income so the family would not start earning escrow until they had exceeded that.

As of right now in standard HUD programs, there is only EID (which will sunset with HOTMA) and JPEID – associated with the Jobs Plus programs. There may be other modifications that have been made by MTW agencies that would fall into this situation as well.

Esc12**Q. How do we deal with participants who have earned income disregarded?**

A. To set the baseline, include all actual earned income. Follow rent calculation regulations or program rules when calculating rent to be paid. When the rent paid exceeds the baseline (which included all earned income when the family entered the FSS program) then escrow begins.

Esc13

Q. For EID person enrolled in FSS while unemployed, 50058 showed no earned income, then person got job. Their income was disregarded 100% first year, so no rent paid from earned income, so no escrow, but 2nd year person earned income and paid 50% of their rent and received the 50% disregard for year 2 and 50% escrow (half of escrow) do they not receive that portion of the escrow since they paid according to their earned income? the 3rd year, they are off of EID and paying full rent so then do they not receive full escrow?

A. No. In this scenario, the person would receive full escrow once they were no longer having any income disregarded. The key is, they enrolled at \$0 income, so their FSS escrow baseline income was set at \$0. If they had been earning \$5000 when they enrolled in FSS, even if that \$5000 had been being disregarded, the FSS baseline income would have been set at \$5000.

Esc14 (See 24 CFR 984.305(a)(2)(iii) - FSS Escrow Account)

Q. What happens if families under-report their income?

- A. Basically, the family can't pay less rent AND accumulate more escrow. If the FSS family is found to have under-reported income in the re-examination used to set the baseline, (so, their baseline should have been higher) the escrow for the entire period of the CoP will be re-calculated using the correct income to set the baseline and then calculate subsequent escrow amounts. The escrow will be smaller each month because the baseline will be higher and thus the difference between the baseline and the current will be less.
- If the FSS family has been found to have under-reported income after the baseline annual earned income was set, (so, their current rent should have been higher) the amount credited to the FSS escrow account will be based on the income amounts originally reported by the FSS family. The family does not earn more escrow on back-rent paid pursuant to a repayment agreement in this case. _

Esc15

Q. Now that the escrow must be deposited monthly (24 CFR 984.305(a)(1)), does the interest have to be allocated monthly as well?

A. No. 24 CFR 984.305(a)(3)(iv) indicates that the PHA/owner must report to each FSS family the amount of interest earned on the account each year. The escrow must be credited and allocated at least annually.

Esc16

Q. Is escrow affected if the family receives outside rental assistance?

A. No.

Esc17

Q. If a family moves from the old regs to the new regs, do we re-do their baseline?

A. No. You would just use the new escrow calculation at their next income re-certification.

Esc18**Q. What if the new escrow calculation makes their escrow calculation go down?**

A. The primary impact of the changes to the escrow calculations is to allow families that reach or have reached 50% AMI to continue to increase their escrow amount, where previously, there was a cap. For these families, the new escrow calculation will cause their monthly FSS escrow amount to go up and not down. While the escrow caps based on gross rent and the voucher payment standard may limit the amount of escrow that some existing FSS participants accumulate, overall, we anticipate that very few existing FSS participants will experience a decrease in their monthly escrow accumulation when they transition to the new calculation.

Esc19**Q. Could a family lose their accumulated escrow by switching from the old calculation to the new?**

A. No.

(New!) Esc20**Q. Do we also wait to calculate escrow for FSS people above 50% AMI at the next re-certification or since it will be to their benefit to use sooner, use new escrow calc as soon as Action Plan is approved even if there is no re-certification?**

A. You would need to wait until the next re-certification. If your rent policies allow for a family to request an interim re-certification, you may wish to explain to the family how requesting an interim re-cert may impact their escrow. Remember, it may also impact their rent if their income has increased since the last one.

(New!) Esc21**Q. Since the 120-day rule is permanently gone, if a client has a pending change, do we wait for the change to be complete or use the effective certification?**

A. The baseline is set at whatever it is on the effective date of the CoP. Therefore, if the income/rent change will be effective on the same date that the CoP will be effective, the CoP must reflect the new income/rent. See Date12 for examples.

(New!) Esc22**Q. If a participant doesn't pay their rent or pays their rent late, do they still get escrow?**

A. Per 24 CFR 984.305(a), except as provided in 24 CFR 984.305(b)(3), escrow credit amount must be deposited each month by the PHA or owner. That means that escrow is deposited each month, regardless of whether the family pays rent or pays it on time. Please see 24 CFR 984.305(b)(3) (family is over 80% AMI) and (b)(4) (CoP is completed, terminated or family is not under a lease) regarding when a PHA or owner must not make an escrow credit.

Extensions

Ext1

Q. Do we have more leeway in giving CoP extensions now?

A. Yes. 24 CFR 984.303(d) has been expanded. Now, in addition to circumstances beyond the family's control, the following are valid definitions of "good cause" to approve an extension:

- (2) Active pursuit of a current or additional goal that will result in furtherance of self-sufficiency during the period of the extension (e.g., completion of a college degree during which the participant is unemployed or under-employed, credit repair towards being homeownership ready, etc.) as determined by the PHA or owner; or
- (3) Any other circumstance that the PHA or owner determines warrants an extension, as long as the PHA or owner is consistent in its determination as to which circumstances warrant an extension.

Ext2

Q. Does this change in the length of the base FSS CoP affect extensions?

A. No. The PHA/owner may still find good cause for extending the CoP for up to 2 years beyond the base contract. Extensions may be given for any period of time up to 2 years and any number of extensions may be given, as long as their total time does not exceed two years. PHAs may make these policies locally. See 24 CFR 984.201(d)(13)(ii)

Ext3

Q. If a participant chooses to stay under the old CoP and then they get an extension (based on the old regulations) do they automatically switch to the new regulations?

A. No. If a participant chooses to stay under the old regulations, they stay under the old regulation until their CoP, including any extensions, is complete or until they choose to switch to the new regulations.

Ext4

Q. If someone has a goal of Home Ownership but current contract ends during this limbo, would it be considered good cause to extend their contract given under new rules they would be allowed to continue on in FSS while completing Home Ownership Program?

A. Good cause is determined on a case-by-case basis by the FSS program.

(New!) Ext5

Q. Can we give extensions one year at a time or do they have to be two years or nothing?

A. You can make a determination how long of an extension to give, up to 2 years. You may decide to give extensions in smaller increments.

Finishing the Contract of Participation

Finishing the Contract of Participation (24 CFR 984.303(g))

End1

Q. Can participants still graduate from FSS using the “30% Rule” (sometimes known as “going over income?”

A. That rule has been eliminated under the Final Rule. The only way to graduate from the FSS program successfully is when the FSS family has fulfilled all of its obligations under the CoP, including all family members’ ITSPs.

End2

Q. Can participants stay in FSS during their 180 days of “Zero HAP” (also known as “Paying Full Rent”)?

A. Yes. This has always been the case and has not changed. But note that if a family’s income goes over 80% of AMI, they are no longer eligible to accumulate escrow. It is not uncommon for residents to start into their 180 days of paying full rent before their voucher eligibility ends, and then have a life event that brings their income below that level. It’s generally best practice to allow a family to stay on FSS even if they are not earning escrow during that time, in case they do end up continuing their voucher – that way, they can continue with their Contract of Participation.

End3 (See 24 CFR 984.305(a)(2)(ii) FSS Escrow Account)

Q. Can the PHA/Owner require participants to pay back interim escrow disbursements if they don’t graduate?

A. No.

End4

Q. If a participant graduates in the middle of the month, is the escrow pro-rated for that month?

A. No.

End5

Q. If a current FSS participant is eligible to graduate FSS due to the 30% rule, do we graduate them at this time since our Action Plan has not been updated and approved yet with the Final Rule changes?

A. Yes, you must continue to serve and graduate families who are already enrolled under existing CoPs, under the old rules.

End6

Q. Can we continue to graduate families between June 16, 2022 and when we have our updated FSS Action Plan approved?

A. Yes.

(New!) End7

Q. If there are several adults in the household who have an ITSP, do they all have to complete all of their goals in order for the CoP to be successfully completed?

A. Yes. Only the Head of FSS Family must include the mandatory goal of being suitably employed, but all of the goals on all of the ITSPs must be completed in order for the family to graduate.

(New!) End8

Q. In 24 CFR 984.305(c) Disbursement of FSS Account Funds, it says, "(1) General. The amount in an FSS escrow account in excess of any amount owed to the PHA or owner by the FSS family, as provided in paragraph (a)(2)(iii) of this section..." How do we know how much the participant owes an owner/landlord?

A. The PHA is not required to confirm with the landlord/owner that the FSS participant family owes no debts prior to graduation and escrow disbursement. However, if the landlord/owner has reported any outstanding debts to the PHA, the debt amount will be deducted from the final escrow disbursement prior to disbursement and the PHA will use it to pay the landlord/owner to reduce/settle the debt owed by the participant. The PHA may set a policy to consult with the landlord prior to graduation to determine if the FSS participant family owes debts under the lease.

(New!) End9

Q. If a FSS participant is eligible to graduate with escrow and has back rent, can the PHA/owner define how many months a participant can be past due in rent or cap a dollar amount and/or require that the family be "current" with their rent, before dispensing funds? (i.e. make sure FSS participants don't have back rent as a condition to releasing funds.)

A. 24 CFR 984.303(g) states that "The CoP is considered to be completed, and a family's participation in the FSS program is considered to be concluded when the FSS family has fulfilled all of its obligations under the CoP...on or before the expiration of the contract term, including any extension thereof." Pursuant to 24 CFR 984.303(b)(3), the FSS family must comply with the terms and conditions of their public housing or section 8 lease. Thus, under the final rule, a family must be "current" with their rent or, if rent is owed, the family must be "current" with a repayment agreement in order to graduate from FSS and receive disbursed escrow funds.

(New!) End10

Q. In the future, if someone has been on the FSS program for about 2-3 years, and has earned escrow, what happens to the family if they've gained employment that puts the family over the FMR? Now that the 30% Rule is gone, will this be a lost graduate?

A. Not necessarily. FSS Coordinators should work to be aware of when a family is nearing the end of their rental assistance for any reason, including having reached “Zero HAP” and triggered the 180 days until their voucher is terminated or has become “over-income” for public housing. During that time, the FSS Coordinator should be working with the family to ensure that they meet the requirements for graduation before their rental assistance ends.

(New!) End11

Q. If an individual reaches 0 HAP (since the 30% graduation rule is no longer) is it acceptable and appropriate to change their ITSP to allow them achievable goals in the time frame before they exit from housing?

A. It is a best practice to review the participants’ goals any time termination from rental assistance is imminent. If a family has reached “zero HAP” one might conclude that they would be leaving rental assistance due to significant progress toward self-sufficiency. It would be appropriate to review the CoP and ITSPs at that point and if the FSS Action Plan allows for goal changes, follow those parameters.

Termination with Escrow Disbursement

Term1 (See 24 CFR 984.303(k) - FSS Escrow Account)

Q. What are the reasons a family could still have their escrow even if they don't graduate?

A. Termination with Escrow Disbursement could happen in three scenarios

1. The PHA/owner and family agree that one or more services/resources are both critical and unavailable.
2. The Head of FSS family becomes permanently disabled and unable to work after having earned escrow and there is no other household member able or willing to assume the CoP.
3. The family ports in a situation where they are unable to continue to CoP, but have not yet met the requirements for graduation and the PHA determines that there is good cause for termination with escrow disbursement.

Term2

Q. What verification is required for scenario #2?

A. The regulations do not stipulate.

Term3

Q. What if an FSS participant passed away before graduating and there was no other adult family member to take over the CoP?

A. This would still be a matter to be taken up in a waiver request.

Forfeited Escrow

For1

Q. When a family graduates, 24 CFR 984.305(a)(2)(iii) states that the PHA/owner can take any amount owed to the PHA/owner by the family before disbursing the funds. Is that true if the family forfeits the escrow?

A. No. Forfeited escrow cannot be used to settle debts owed by the family to the PHA/owner.

For2

Q. What can we use this forfeited escrow pot for?

A. 24 CFR 984.305(f)(2)(i-ii)

(A) Support for FSS participants in good standing, including, but not limited to, transportation, child care, training, testing fees, employment preparation costs, and other costs related to achieving obligations outlined in the CoP;

(B) Training for FSS Program Coordinator(s)

(ii) Such funds may not be used for salary and fringe benefits of FSS Program Coordinators; general administrative costs of the FSS program, for housing assistance payments (HAP) expenses or public housing operating funds

For3 (See 24 CFR 984.305(f) - FSS Escrow Account)

Q. I know we can't use the forfeited escrow pot to pay for an FSS Program Coordinator – can we use it to pay for a different salaried position?

That's not recommended. The pot should, ideally be empty, right? Since the goal is always to support every family to successfully graduate. So, making a commitment such as a salary could put the PHA/owner in a bind if there are no forfeited escrows.

For4

Q. Is there a time limit on the PHA/owner's use of forfeited escrow in the account for the benefit of current FSS families?

A. No.

For5

Q. Can funds forfeited from an FSS family that was in HCV be used to benefit an FSS family that is in PH or PBRA and vice versa?

A. Yes.

For6 (See 24 CFR 984.201(d)(13)(iv) – FSS Action Plan)

Q. Is there a limit on the amount that any family can receive from the "forfeit pot"?

A. No. This is a matter for local policy.

For7

Q. What else could we use the forfeited funds for?

A. It will be up to local policy to determine eligible uses. Any activity, support, resource, etc. that benefits FSS participants would be eligible – that could include anything that would help the families to pursue any goal in their CoP/ITSP. It would not have to be an employment/earnings goal, specifically. It could be an education/training goal, a financial empowerment goal, etc. The use could benefit several participants at the same time (e.g. a class) or could benefit one participant at a time, based on their individual needs.

The local policy needs to establish what types of activities/supports/resource might be available, broadly, the process by which a participant could access the funds, the process by which the PHA/owner would review and approve/deny the request. The policy is required to ensure that access to funds is transparent and equitable.

For8

Q. When will this new regulation be effective?

A. For any FSS participant that has a contract terminated and forfeits escrow as of June 16, the new regulations will be effective and the forfeited escrow will go into the forfeited escrow account (as opposed to under the old regulations where the forfeited escrow would have gone back to Op Fund or HAP.)

For9

Q. Forfeited escrow funds are to go to families “in good standing.” Does the local PHA have to define in the policy what they consider as good standing?

A. The regulations define “good standing” in section 984.103 Definitions - FSS family in good standing. For purposes of this part, an FSS family that is in compliance with their FSS CoP; has either satisfied or are current on any debts owed the PHA or owner; and is in compliance with the regulations regarding participation in the relevant rental assistance program, including rent.

For10

Q. If we have some forfeited escrow already, will we have to transfer those current funds to the new forfeited escrow account? Or will those funds stay in the current account?

A. Escrow that has been forfeited prior to June 16, 2022 will be treated as it was under the old rule (back to Op Fund/HAP.) Escrow that is forfeited on June 16 or after will go into the new Forfeited Escrow pot.

For11

Q. Can we still have a 501(c)(3) that can leverage funding outside of the now forfeited escrow to provided supportive services to participates?

A. Yes! Absolutely!

For12

Q. Should multifamily programs STOP sending any forfeited funds back to HUD via a negative OARQ adjustment on the voucher even if the Action Plan has not yet been approved?

A. That is correct – as of the effective date of the Final Rule, programs should stop sending forfeited funds via negative OARQ adjustments back to HUD.

(New!) For13

Q. Can we use forfeited escrow for celebrations for FSS graduates?

A. No. That would be considered administrative, which is not allowed. See 24 CFR § 984.305(f)(2) for further guidance.

(New!) For14

Q. Could we establish a policy for the use of forfeited escrow that says, “Forfeited escrow funds remaining from terminated participants will be collected in a general fund and may be disbursed evenly among participants in good standing on a regular basis.”

A. Yes. That would be an allowable use per 24 CFR § 984.305(f)(2)

Transitional Supportive Services

Trans1

Q. Part 984.303(j) *Transitional Supportive Services* reads: “A PHA or owner may continue to offer to a former FSS family that has completed its CoP, appropriate coordination of those FSS supportive services needed to become self-sufficient if the family still resides in public housing or Section 8 housing.” In the prior iteration of this regulation, the head of the FSS family was required to be employed as a condition of eligibility for the transitional services. Was that intentional?

A. Yes. It is entirely possible that a participant could be employed and then graduate, and then lose employment. The PHA/owner could provide transitional supportive services in this case.

Program Coordinating Committee

Program Coordinating Committee (PCC) (See 24 CFR 984.202)

PCC1

Q. Do the residents on my PCC have to be current FSS participants?

A. The regulations do not require this.

PCC2

Q. Are there term requirements for PCC members?

A. The regulations do not have any parameters for this.

PCC3

Q. How often does my PCC have to meet?

A. The regulations do not have a requirement for this. Best practice is quarterly.

PCC4 (See 24 CFR 984.202 (c) - Program Coordinating Committee)

Q. Can we still use an alternative gathering of local service providers as our PCC?

A. Yes, as long as it includes the required membership (including residents)

PCC5

Q. Is there a scenario in which an FSS program operated by PBRA owner does not have a PCC?

A. Yes. According to 24 CFR 887.105(4), "When a Program Coordinating Committee (PCC)... is available, owners shall work with that PCC or shall create their own PCC, either by themselves, or in conjunction with other owners." Owners are highly encouraged to have a PCC if one is available in their area, but PCCs are not required.

PCC6

Q. In place of PCC, are we still allowed to continue sanctioned alternatives, in accordance with HUD regs?

A. See 24 CFR 984.202(c) Alternative committee. The PHA may, in consultation with the chief executive officer of the unit of general local government served by the PHA and one or more residents of each HUD-assisted program served by the FSS program, utilize an existing entity as the PCC if the membership of the existing entity consists, or will consist of, the individuals identified in paragraph (b)(1) of this section, and also includes individuals from the same or similar organizations identified in paragraph (b)(2) of this section.

PCC7

Q. Are RAD-PBV, PBV, and HCV considered three different programs for PCC representation purposes?

A. No. All HCV programs including PBV and all special purpose vouchers and RAD fall under the HCV program for purposes of PCC representation.

Portability

Portability (24 CFR 984.306)

Port1 (See 24 CFR 984.306(2)(b) - HCV Portability Requirements for FSS Participants)

Q. I'm still a little confused about portability. Who can continue in the FSS program after they port?

A. The key is, does the PHA that administers the family's RENTAL ASSISTANCE have an FSS program? If yes, the family may enroll in the receiving PHA's FSS program or, if feasible, may continue in the initiating PHA's FSS program. However, if the receiving PHA ABSORBS the voucher AND does NOT have an FSS program, the family cannot continue in the program. This is not a change from [PIH Notice 2016-8](#).

	RHA administers/bills	RHA absorbs
RHA has FSS	YES	YES
RHA does not have FSS	YES	NO

Port2

Q. For port-ins, is there a timeline that the family must sign a CoP with receiving PHA to continue FSS whether absorbing or billing? For example, must sign CoP with receiving PHA within 30 days of lease up in next jurisdiction.

A. If a port-in family is enrolling in the receiving PHA's FSS program, the receiving PHA must execute a CoP with the family for the remainder of the term of the initial CoP. There is not an explicit timeline for the receiving PHA to execute the CoP with the family but, due to other dependencies on the CoP (e.g. escrow credit), it is strongly advised that the receiving and initiating PHAs coordinate voucher port into the receiving PHA and execution of the new CoP at the receiving PHA to minimize any lapse in the participant's progress towards their goals and/or lost time in the contract. If a port-in family will continue in the initiating PHA's FSS program, they may continue under their initial CoP including any modifications necessary due to their relocation.

Port3

Q. MUST we allow porting-in families already on FSS to participate?

A. It is not required, but strongly encouraged.

Mandatory Program

Mandatory Programs (984.105 Minimum program size)

Mand1

Q. When we're talking about Mandatory Programs and Mandatory Program Size, does that have to do with HUD FSS NOFO funding?

A. No.

Mand2 ((See 24 CFR 984.105 - Minimum Program Size)

Q. Then what is Mandatory Programs and Mandatory Program Size all about?

A. In brief, any PHA that accepted a new voucher increment and/or new public housing units between 1992 and 1998 incurred a commensurate number of FSS Slots in their FSS Mandatory Program. At that time, there was separate Public Housing FSS and HCV FSS. Then, after 1998, for every person that graduated from each FSS program, the number of slots was reduced by one. The HCV Mandatory slots were "tracked" in SEMAP based exclusively on PHA self-reports. The Public Housing slots were not tracked. HUD is in the process of re-determining the number of mandatory slots at each PHA using historical data.

Mand3

Q. What does the new FSS Statute have to say about it?

A. The new statute says that if a PHA still had mandatory slots as of May 24, 2018 (the day the Economic Growth Act passed) they still have them – but now the number of public Housing mandatory slots and the number of HCV mandatory slots are combined into a single number of mandatory slots. Likewise, any graduate from any rental assistance program (including PBRA) counts toward reducing the number of mandatory slots.

Mand4

Q. Can I get an exception on my Mandatory Program requirement? (See 24 CFR 984.105(e) - - Minimum Program Size)

A. PHAs can request an exception from their field office to either a) run a program smaller than their Mandatory Program Size or b) not run a program at all. Field offices, under the old rule, could grant an exception for up to three years. Under the new rule, they can grant an exception for up to five years.

Mand5

Q. If I don't have any Mandatory Program slots left, can I still get those points in SEMAP?

A. No. Indicator 14 is not applicable.

Mand6

Q. If FSS graduations from participants of any rental assistance program counts toward reducing the mandatory program size, how do we reflect this in SEMAP?

A. The indicator on SEMAP that asks the number of mandatory slots your PHA has always been completely self-reported.

Mand7

Q. If we meet our Mandatory Program requirements, do we have to end our FSS program?

A. No! You'll just be running a "voluntary" FSS program. All the rules and funding opportunities are the same.

Future Technical Assistance and Guidance

Next1

Q. Will everyone who has taken HUD's online training on HUD Exchange have to take it again?

A. Yes, but that will not be required until the FY2022 funding is awarded.

Next2

Q. Is HUD planning to issue an update to the HUD-50059 for multifamily owners so that we can submit our reports to TRACS like PHAs can submit the Section 17 FSS Report on the HUD-50058 into PIC?

A. Yes, it is scheduled to be included in the next TRACS release, which should occur soon.

Next3

Q. Will Multifamily be issuing a separate FSS Implementation Notice? When?

A. We are currently working updated Multifamily implementation notice and corresponding standard of work. We hope to have the notice published as soon as possible.

Next4

Q. Will there be a Sample Cooperative Agreement available?

A. HUD will develop a sample Cooperative Agreement in the future, but it is not currently available.

Next5

Q. Where can I get more information about Best Practices for FSS?

A. All of these are available on HUD's FSS Resources Page

- [Program Design - Trauma-Informed Care & ACES](#) - This training was given to Jobs Plus grantees, but is applicable to all supportive services programs.
- [Program Design Best Practices for Resident Engagement & Retention](#) - What skills do your staff need to have? What should you consider in your work flow? Relational Organizing as the key for Recruitment & Retention. What are some innovative ways to engage and connect residents?
- [Administering an Effective Family Self-Sufficiency Program: A Guidebook Based on Evidence and Promising Practices](#)
- [FSS Online Training](#)
- [FSS Resource Library page on HUDEXchange](#)

Next6**Q. You mentioned peer exchange groups. Where do I sign up?**

A. Please note - these are not endorsed or monitored for accuracy by HUD.

Compass FSS Link is your ultimate FSS toolbox complete with a peer discussion board, hundreds of program management and financial coaching tools and templates, monthly webinars, and even an invitation to our National FSS conference. You can see the full benefits and join for free at <https://www.compassfsslink.org/>.

NAHRO-sponsored - This listserv provides a forum for discussion of information relevant to HUDs Family Self-Sufficiency and HCV Homeownership Programs. Participants share thoughts, ideas, resources and documents for the use of subscribers. FSS+subscribe@familyselfsufficiency.groups.io

(New!) Next7**Q. I'm an owner interested in setting up a cooperative agreement with another owner or PHA. What are my next steps?**

A. If you have an intended partner for your agreement lined up, you should mention that on your action plan. As part of the cooperative agreement, you will need to make sure your action plans are compatible with one another. Owners that enter into a cooperation agreement must follow the regulations located at 24 CFR § 887.107, as a basis for an agreement. HUD will release its Sample Cooperative Agreement as an example of the required information a cooperation agreement should contain.

(New!) Next8**Q. Will there be changes to the HUD-50058 form to reflect the FSS Final Rule?**

A. We are working on updating the HUD-50058 form to reflect the FSS Final Rule as part of the updates that will be made pursuant to the issuance of HOTMA. There will be a public comment period. We don't have a definite timeline.