

HUD RAP

(Relocation & Acquisition Policies)



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Community Planning and Development

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Question 1: I am a relocation agent assisting families who are being displaced as a direct result of a federally-funded project that causes the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) to apply. There is a family that will be displaced from a dwelling by the project and is currently receiving HUD rental assistance under the Housing Choice Voucher (HCV) program (also called Section 8 tenant-based assistance) from the local Public Housing Agency (PHA). What is the first step in assisting a HCV family? Where can I learn more about this program?

Answer: The HCV program is the federal government's primary program for assisting low-income and very low-income families, the elderly, and persons with disabilities to obtain affordable decent, safe and sanitary housing in the private market. A family¹ that receives a voucher from a PHA is free to choose any housing that meets HCV program requirements provided that the owner² agrees to participate in the HCV program and rent to the family. The PHA pays the subsidy directly to the owner on behalf of the participating family. Generally, the family pays 30 percent of their monthly adjusted gross income for rent and utilities.

Relocation agents must contact the local PHA that is administering the family's voucher assistance. The PHA can provide you with information about the HCV program, PHA policies and procedures for families moving to another unit, and information concerning the fair market rents (FMRs) and payment standards in the PHA's jurisdiction. The family and/or the owner of the dwelling in which the family resides can provide you with the PHA's contact information. In addition, relocation agents may contact the Office of Public Housing (OPH) in the local HUD Field Office that works directly with PHAs in the area. HUD Field Office staff can provide additional information and clarification of HCV program rules and policies. Contact information

¹ The term "family" will be used throughout this document to identify a family assisted under the Section 8 HCV program, in lieu of person(s), tenant(s), participant(s) and/or HCV recipient(s). HUD defines "family", to include, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person or group of persons approved to reside in the unit with assistance under the program. A family can include a family with a child or children, a group of persons consisting of two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides.. The PHA has the discretion to determine if any other group of persons qualifies as a "family."

² Under HCV program regulations, an "owner" is defined as any person or entity with the legal right to lease or sublease a unit to a participating family. A property rental may be handled by the owner of a property, or a property manager, management firm, or leasing company hired by the owner to act on his/her behalf. The term "owner" is also synonymous with the term "landlord". For consistency, this document will use the word "owner".

for OPH in the local HUD Field Office is provided at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/about/field_office

For further information about the HCV program, you may wish to look over the fact sheet on HUD's website at:

http://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8.

This fact sheet provides general information about the program and links to local PHAs and HUD Field Offices. There is a list of PHAs and their contact information available at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts

Question 2: Do I, as the relocation agent, need to contact the local Public Housing Agency (PHA) about the displacement of this family, or is it the family's responsibility to contact the PHA?

Answer: Once the relocation agent is made aware that a family scheduled to be displaced is participating in the HCV program, the relocation agent should contact the local PHA administering the family's voucher assistance to inform the PHA of the pending displacement and begin working with the PHA staff in order to move the family as smoothly and as quickly as possible.

Both the relocation agent and the family being displaced should meet with the PHA staff to discuss: (1) the impact of the displacement upon the family, (2) the need to obtain comparable replacement housing referrals and, among other things, (3) the establishment of a cooperative relationship among the family, relocation agent, and the PHA. The relocation agent should provide a copy of the *General Information Notice* (GIN) to the PHA indicating the family is scheduled to be displaced by the project. Since the URA requires that the displacing agency assist the affected family in finding replacement housing, the relocation agent must contact the local PHA in preparation for assisting the family as part of its advisory services and to locate comparable replacement housing to be used in the *Notice of Eligibility for Relocation Assistance*. The family or the owner can provide you with contact information for the PHA. Unless you work with the local PHA's HCV program staff, you cannot expect to provide adequate assistance to the family or identify comparable replacement housing that will meet HCV program requirements.

Question 3: Is it the responsibility of the relocation agent or the PHA to provide advisory assistance to the HCV family?

Answer: The relocation agent is responsible for providing advisory assistance to the family that is being displaced from their dwelling. When the displacement involves a HCV family, advisory assistance includes working with the PHA staff and other local resources to help the family relocate. Normally, a PHA provides basic guidance and assistance to the family, but the family generally must find appropriate housing on their own. The relocation agent must provide advisory assistance required under the URA to help facilitate a move that is appropriately tailored to the family's needs. Such assistance should be provided in addition to the guidance normally provided by a PHA to a new or moving HCV family.

Question 4: What are some of the key issues of which I need to be aware when displacing a HCV family?

Answer: The HCV program generally provides longer term rental assistance to a family than a replacement housing payment (RHP) provided under the URA. The HCV program's complexities and the extensiveness of the program's regulatory requirements mean that a relocation agent and the PHA must work together to ensure that the family has a trouble-free relocation. If a HCV family violates any of the program requirements a PHA may initiate termination actions against the family. If the family is terminated from the program, the family would have to reapply for the program. The family's readmission to the program is subject not only to a PHA's lengthy waiting list, but also to a PHA's discretion to deny admission to those that were previously terminated from the program as stated in the PHA's administrative plan. Therefore, the relocation agent must clearly understand HCV program requirements and the local PHA's policies and procedures for moving a family from its current dwelling to a new dwelling under the HCV program. All PHAs provide helpful information packets to families that want to move to other housing under the HCV program. The relocation agent working with a HCV family that will be displaced should obtain this helpful information packet and establish a working relationship with the local PHA staff to make the transition as smooth as possible.

A comprehensive document entitled the *Housing Choice Voucher Program Guidebook* is available on HUD's website at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hc/v/forms/guidebook. This resource will help you understand key terms and program requirements, but it is not a substitute for working with the local PHA staff to ensure that the family's relocation is carried out consistent with URA and HCV program requirements.

Question 5: In order to determine if a comparable replacement dwelling is within the financial means of a displaced family, relocation agents are required to determine the displaced family's gross annual household income, as defined by URA regulation 49 CFR 24.2(a)(14). Is income determined differently for HCV purposes?

Answer: Yes. Relocation agents should ensure that a HCV family's income used for URA purposes is calculated in accordance with the URA regulatory definition of "household income" at 49 CFR 24.2(a)(14) instead of the HCV program definition of "annual income" at 24 CFR 5.609, which excludes amounts from income that are not excluded under the URA calculation.

Question 6: Since the URA regulations state that comparable housing for a family receiving government housing assistance is housing that may reflect similar government housing assistance, what do I need to do to find comparable replacement housing for a family that is already participating in the HCV program?

Answer: In order to identify the HCV program requirements for the family that is being displaced, the relocation agent and the displaced family must work closely with staff from the PHA that administers the family's voucher. Any move of such a family must be coordinated with the PHA and must also comply with HCV program requirements. Therefore, the relocation

agent must contact the PHA as early as possible in the relocation process. The PHA may have a list of owners in its jurisdiction that may be willing to lease a dwelling to the family. The PHA may also have a list of other parties who may be willing to help the family find a dwelling. In order for a dwelling to be approved by the PHA, it must pass a HUD Housing Quality Standards (HQS) inspection, be rent reasonable for the area and meet other program requirements. Any local owner of rental housing who is willing to participate in the HCV program may do so as long as the PHA approves the dwelling and the owner.

Question 7: Do I need to verify that the owner of any comparable replacement housing that I identify for the family will participate in the local PHA's HCV program?

Answer: Yes, any dwelling that you identify as URA comparable replacement housing for a family receiving HCV assistance must be made available to the family *before* the family's displacement and meet the requirements of the HCV program. PHAs can provide lists of currently active owners participating in the HCV program and locations of their rental dwellings. PHAs can also help interested owners become new participants in the program. If you identify an appropriate dwelling where the owner is not currently participating in the HCV program, but is willing or interested in doing so, you can provide the owner with contact information for the PHA.

Question 8: Is the relocation agent required to determine that a comparable dwelling offered to the displaced family meets HCV program rent reasonableness requirements?

Answer: The relocation agent is not required to determine that the comparable dwelling meets the PHA's rent reasonableness requirements at the time the comparable dwelling is offered to the displaced family in the *Notice of Eligibility for Relocation Assistance*. A HCV program rent reasonableness determination is not required by the URA nor is this determination made by the relocation agent. Under the HCV program, a PHA is not required to determine the rent reasonableness for a dwelling until after the family selects a dwelling to rent (and families often do not select the comparable replacement dwelling(s) offered by the relocation agent). If the family was to choose to rent the comparable replacement dwelling offered and the PHA determines that the rent requested by the owner for the dwelling is not reasonable, the family could not rent the dwelling at that amount. However, an owner may be willing to negotiate the amount of the rent with the PHA to meet the PHA's rent reasonableness determination in order for the family to rent that dwelling. Under HCV program regulations, if the family requests the PHA's assistance, the PHA must help the family negotiate the rent with the owner. The relocation agent can also assist in negotiating with the owner on behalf of the family. If the comparable replacement dwelling's rent cannot be negotiated to meet the rent reasonableness requirements, the relocation agent must help the family locate another dwelling. (This may mean that another comparable replacement dwelling would have to be made available and an amended *Notice of Eligibility for Relocation Assistance* would have to be provided to the family that is being displaced).

Question 9: Can a HCV family rent something other than the comparable dwelling that I locate for them?

Answer: The HCV family is free to choose their replacement housing; however, the dwelling must meet HCV program requirements. Please note that, in addition to selecting a unit in the area, a HCV family may exercise its right to port, that is, to move outside of the PHA's jurisdiction (including moving to another state).³ The family must notify the PHA if it intends to port their voucher so that the PHA may begin the portability process.

The PHA issues a voucher to the family to locate a suitable dwelling. The voucher will identify the dwelling size by number of bedrooms for which the family qualifies. The PHA can provide guidance and assistance to both the relocation agent and the family on finding housing that meets HCV program requirements.

One thing to keep in mind when assisting a HCV family in locating a comparable dwelling is the PHA's payment standards. Payment standards are used to calculate the housing assistance payments (HAP) that the PHA pays to the owner on behalf of the family leasing the dwelling and represents the maximum amount for rent and utilities established by the PHA for a dwelling of that size. PHAs have flexibility in establishing a schedule of payment standard amounts by bedroom size. The level at which the payment standard amount is set directly affects the amount of subsidy that will be paid by the PHA to the owner on behalf of the family, and the amount of rent paid by the family to the owner. Relocation agents should obtain the PHA's payment standards for dwellings within their jurisdiction prior to conducting a search for comparable replacement housing.

Dwellings that exceed the PHA's payment standard must not be used for URA comparability purposes, unless no comparable dwelling within the payment standard is available. A family that receives HCV program assistance may choose to lease a dwelling that exceeds the PHA's payment standard under certain conditions, but the family would be responsible for paying the difference between the HAP and the lease rent. However, the PHA must first determine whether the family's share of rent and utilities for the dwelling would exceed the statutory maximum initial rent burden of 40 percent of the family's adjusted monthly income.⁴

Question 10: What impact does the monthly HCV program Housing Assistance Payment (HAP) have on the Replacement Housing Payment (RHP) for which a HCV family is eligible under the URA?

Answer: As always, the comparable dwelling made available under the URA requirements establishes the maximum RHP that the displaced family is eligible to receive, if any. The actual RHP paid is adjusted based on the lesser of the cost of the identified comparable dwelling or the dwelling actually rented or purchased. A family that continues to participate in the HCV

³ A PHA may limit the right to port for families that did not live in the initial PHA's jurisdiction at the time they applied for assistance and have lived in the jurisdiction for less than one year.

⁴ The family's share of rent and utilities must not exceed 40 percent of their monthly adjusted income during the family's initial lease term for any dwelling unit under the HCV program.

program may or may not receive an RHP since the RHP only covers increased rent and utility costs caused by the relocation that are not covered by the HCV subsidy. A HCV family's rent and utility costs are reduced by the monthly HAP that the PHA pays to the property owner. In order to avoid a duplication of benefits (which is prohibited under HCV and URA rules), the RHP for a HCV family covers only increased rent and utility costs caused by the relocation that the HCV subsidy does not cover.

The HCV program provides longer-term housing assistance to the family at potentially higher amounts than would a RHP (since the RHP is calculated to cover only a 42-month period and is not adjusted for subsequent changes in income or rent). For an illustration of how the HAP amount is deducted when computing an RHP, please see form HUD-40058 (Claim for Rental Assistance or Down Payment Assistance), line 7(7). A copy of this form is available on the HUD website at: <http://www.hud.gov/offices/adm/hudclips/forms/files/40058.pdf>.

Question 11: HUD's Handbook 1378, entitled *Tenant Assistance, Relocation and Real Property Acquisition*, discusses "gap" payments not being considered as income (see page 2-7, Paragraph 2-6A). How is a gap payment calculated for a HCV family that is being displaced?

Answer: At the point of making a claim for a RHP, a "gap" may remain between the family's share of the rent/utilities at the displacement dwelling versus the family's share of the rent/utilities at the replacement dwelling (for a HCV family, it is any RHP required by the calculations after avoiding duplication of the HCV program subsidy payment). Because the HCV program uses "adjusted income" for determining a family's share of the rent/utilities, but the URA uses gross income, a family's share of the rent under the HCV program should almost always be the same or less than the "base rent" (49 CFR 24(b)(2)) calculated under the URA, and a gap payment may or may not be required.

Question 12: Once the HCV family has found a replacement dwelling to lease and occupy, what are the next steps?

Answer: First, the family must submit a Request for Tenancy Approval (RFTA) (form HUD-52517) to the PHA. The relocation agent should offer to assist the family with the submission. A copy of this form is available on the HUD website at: <http://portal.hud.gov/hudportal/documents/huddoc?id=52517.pdf>

Next, the PHA will determine if the unit is rent reasonable and schedule a Housing Quality Standards (HQS) inspection of the dwelling to determine compliance with HQS. Prior to approving the tenancy, the PHA must also determine if the owner and dwelling are eligible for the HCV program. Then, if all program requirements have been met, the PHA computes the HAP and the HCV family's share of the rent for an approved dwelling. The PHA and the owner execute the HAP contract. The owner and the HCV family execute the lease and include the HUD-prescribed tenancy addendum. If HCV program requirements are not met (i.e., failed HQS inspection, PHA disapproved owner, etc.) another dwelling must be selected and the process begins again.

The relocation agent should assist the displaced family to prepare the URA RHP claim for the replacement dwelling using final rent, utility, and HAP calculations as determined by the PHA.

Question 13: Is HQS for the HCV program different than the decent, safe, and sanitary (DSS) standards for the URA?

Answer: URA regulations defining a DSS dwelling defer to local housing and occupancy codes. HUD's regulations governing HQS for the HCV program consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement. Variations to these regulatory standards may be permitted when a dwelling is subject to more stringent local housing codes or other codes adopted by the PHA. HUD policy provides that when a dwelling is subject to HQS, the dwelling will be deemed to be in compliance with the URA DSS standards if the dwelling meets the applicable HQS. Links to helpful information on HQS standards can be found on the HUD website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/hqs."

The HCV program inspection form (HUD-52580-A) is available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=52580-a.pdf>

Question 14: How long does it take for a PHA to conduct a rent reasonableness determination and HQS inspection in order to approve the dwelling for occupancy by an HCV family?

Answer: Once the family selects a dwelling that they wish to rent, the local PHA will try to make the rent reasonableness determination and conduct the HQS inspection as quickly as possible. However, only the PHA can provide you with an estimate of how long it may take to perform these functions based on its current case load and staffing levels. Since the time required for successful relocation of a HCV family will typically exceed the time required to relocate a family not participating in the HCV program, it is important to make contact with the PHA early in the relocation process and maintain communication throughout the process in order for the project from which a HCV family is being displaced to proceed on schedule. In fact, it may be prudent to identify all HCV families scheduled to be displaced by the project and plan your relocation assistance activities to allow for the extra time and effort that will be required for the successful relocation of those families.

Question 15: What happens if the PHA cannot approve the replacement dwelling selected?

Answer: It is important to find out why the PHA cannot approve the dwelling to determine if there is something that can be done to resolve the issue and make the dwelling acceptable. For example, if the dwelling is determined not to be "rent reasonable" at the asking rental amount, it may be possible to negotiate the rent with the dwelling's owner. If the dwelling fails an HQS inspection in one or two areas, it may be possible for the owner to repair the dwelling in order to obtain the PHA's approval so that the family can assume occupancy. If the particular dwelling has issues that cannot be resolved, relocation advisory services should be provided to help the family locate another dwelling (see Question 8).

Question 16: What if I have a HCV family that wants to relinquish their voucher assistance and rent a replacement dwelling without it?

Answer: A HCV family may leave the HCV program at any time and assume full responsibility for their rent payments. The family must notify the PHA, in writing, that they wish to voluntarily terminate their voucher assistance. However, for a displaced family whose rent is subsidized through HCV assistance at the displacement dwelling, a comparable dwelling under the URA would be a decent, safe and sanitary dwelling in which the owner is willing to accept a HCV, unless such a dwelling is not available in the market. When the comparable dwelling made available to the family is a HCV unit, the maximum RHP amount is based upon the rent of the identified comparable replacement dwelling as reduced by the HAP. A HCV family that wants to relinquish the subsidy at the replacement dwelling is not entitled to recalculation of the maximum RHP based on a dwelling with an unsubsidized rent when a comparable dwelling for which the family could receive HCV assistance has been made available. However, the family is free to rent any DSS dwelling at any time without HCV assistance and without a recomputed RHP and assume the full rent responsibility.

Question 17: The HCV family has been successfully relocated and it is now time to help prepare the family's claim form for the RHP. What are some key issues that I, as the relocation agent, need to consider?

Answer: Once the family has selected a replacement dwelling, and the dwelling has been approved by the local PHA for the HCV program, you will need to obtain information from the HCV family on the amount of HAP to be paid to the owner on the family's behalf in order to calculate any allowable RHP for the replacement dwelling. PHAs provide written notification of the monthly HAP payment to owners and HCV families. Therefore, this information should be readily available to the relocation agent.

Question 18: Where can I find more information about the HCV program?

Answer: HUD's website has detailed information on the Housing Choice Voucher Program. This information is available at: http://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8. In addition, each PHA has a written plan for administration of the program in accordance with HUD requirements. The administrative plan states PHA policy on matters for which it has discretion to establish local policies. A list of PHAs can be accessed through the link mentioned above.

Question 19: Where can I find more information about the URA for HUD-funded programs and projects?

Answer: HUD's Real Estate Acquisition and Relocation website has many resources and valuable links on the URA and HUD's program-specific relocation requirements. You can find this information at: www.hud.gov/relocation.

Question 20: If I have additional questions on relocating a tenant with a Housing Choice Voucher, where should I direct my questions?

Answer: You may direct your questions regarding URA requirements to the HUD Regional Relocation Specialist responsible for your state. A list of these specialists can be found under “Contacts” on HUD’s website at: www.hud.gov/relocation. If your questions specifically address Housing Choice Voucher program requirements, you may contact the Office of Public Housing in the applicable HUD Field Office. A list of these offices can be found at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/about/field_office.

Helpful Resources:

HUD’s Housing Choice Voucher Program Guidebook:

<http://www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm>

HUD Real Estate Acquisition & Relocation Website: www.hud.gov/relocation

HUD Handbook 1378 - Tenant Assistance, Relocation and Real Property Acquisition:

<http://www.hud.gov/offices/cpd/library/relocation/policyandguidance/handbook1378.cfm>

HUD Forms Resource Page:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/