

**HOUSING AUTHORITY OF FRESNO COUNTY
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HOUSING AUTHORITY OF FRESNO COUNTY

2018 ADMINISTRATIVE PLAN

CHAPTER 1: STATEMENT OF POLICIES AND OBJECTIVES

1.1 INTRODUCTION

The Housing Choice Voucher (HCV) Program, formerly known as the Section 8 Program, was enacted as part of the Housing and Community Development Act of 1974 for the purpose of providing housing assistance to low-income families. The HCV program is administered by the Housing Authority of Fresno County (hereafter referred to as the HAFC). HAFC receives its funding for the HCV program from the Department of Housing and Urban Development (HUD); and is currently assisting approximately 7,000 families.

To administer the program, HAFC enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The HAFC must be in compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

In administering the program, HAFC is committed to maintaining compliance with the following:

- The regulations which govern the HCV program which are located in the Code of Federal Regulations at 24 CFR 982;
- The Fair Housing Act, 42 U.S.C. 3610-3619;
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d;
- The Age Discrimination Act of 1975, 42 U.S.C. 6101-6107;
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. ;
- Title II of the Americans with Disabilities Act, 42 U.S.C. 12101; and
- Title IX of the Education Amendments of 1972, as amended 20 U.S.C. 1681,
- HAFC is committed to maintaining compliance with state laws that prohibit housing discrimination based on sexual orientation, gender identity, and/or gender expression.

1.2 CERTIFICATIONS OF OBLIGATIONS

HAFC must submit a signed certification to HUD that:

- HAFC will administer the program in conformity with the Fair Housing Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.
- HAFC will affirmatively further fair housing in the administration of the program.

1.3 HOUSING AUTHORITY OVERVIEW

The primary objective of HAFC is to provide decent, safe and sanitary housing to low-income families at an affordable cost. Our mission is to provide this housing within an environment that fosters the advancement of low-income families from a position of dependency to one of self-sufficiency.

The City and County Housing Authorities function as separate public agencies with separate governing bodies. Through a unique arrangement, the two Housing Authorities share a single Executive Director and staff, thus making it possible to draw on a more comprehensive staff while realizing the cost advantages that result from avoiding duplication, ordering in larger quantities, and sharing equipment and services. Both Housing Authorities are public housing agencies as defined in the United States Housing Act of 1937, as amended, and in 24 C.F.R. Chapter VIII. Both agencies have been organized under Section 31000, et a seq., of the California Health and Safety Code.

The Housing Authority of Fresno County and the Housing Authority of Fresno County are each governed by a seven-member Board of Commissioners. The City Board is appointed by the Mayor. Five of the seven commissioners are appointed to four-year, staggered terms. The other two members are appointed to two-year terms from among both the HCV and Public Housing programs. County Board of Commissioners is structured in the same manner, except that the County Commissioners are appointed by the Board of Supervisors.

The Housing Authority of Fresno County's Assisted Housing Division (AHD) administers the following Section 8 programs:

PROGRAM ALLOCATIONS – COUNTY

HCV VOUCHERS = 5,652

In addition to these voucher the AHD also administers the Family Self-Sufficiency

(FSS) program to assist approximately 37 families. With the assistance of FSS coordinators, each FSS family works toward the attainment of a person five-year written plan to move from dependency to self-reliance. The Division also assists eligible qualifying families to pursue the dream of home ownership through the Section 8 Homeownership option.

Jurisdiction

The jurisdiction of the HAFC is Fresno County.

1.4 LOCAL OBJECTIVES

The primary objective of the HAFC is to provide decent, safe and sanitary housing to low-income families at an affordable price.

The HCV Program is designed to achieve these major objectives:

- To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
- To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low -income families.
- To assist the local economy by maintaining a high lease up rate of available voucher funding to provide a steady flow of money into the community.
- To encourage self-sufficiency of participant families and assist in the expansion of family opportunities which addresses educational, socio-economic, recreational and other human service needs.
- To create positive public awareness and expand the level of family, owner, and community support in accomplishing the HAFC's mission.
- To attain and maintain a high level of professionalism in our day-to-day management of all program components.
- To administer an efficient, high-performing agency through continuous improvement of the HAFC's support systems and commitment to our employees and their development.

1.5 PURPOSE OF THE PLAN

[24 CFR 982.54]

The purpose of the Administrative Plan is to clearly outline the policies that govern the Housing Authority's administration of rental assistance programs. The plan includes program requirements established by HUD, as well as discretionary policies established by the Housing Authority.

The policies of this Administrative Plan comply with applicable local and State laws, as well as HUD and other Federal regulations and guidelines, including fair housing and equal opportunity requirements. If applicable regulatory changes conflict with this plan, regulations will have precedence.

The HAFC adheres to the Administrative Plan in administering all rental assistance programs.

1.6 HOW THE PLAN IS REVISED

The original plan and any changes must be approved by the HAFC Board of Commissioners. A copy of the plan must be provided to HUD.

HAFC will review and update the Agency Plan at least once a year, and more often if needed, to reflect changes in regulations, HAFC operations, or when needed to ensure staff consistency in operation. The HAFC Board of Commissioners must approve the original policy and any changes. Required portions of the Agency Plan will be provided to HUD.

The Administrative Plan is a supporting document to the HAFC Agency Plan, and is available for public review as required by CFR 24 Part 903.

1.7 ADMINISTRATIVE FEE RESERVE

[24 CFR 982.155]

All expenditures from the administrative fee reserve will be approved by the HAFC Board of Commissioners or the Executive Director and made in accordance with the approved budget.

1.8 RULES AND REGULATIONS

[24 CFR 982.52]

This Administrative Plan is set forth to define the HAFC's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed

to ensure compliance with the consolidated ACC (Annual Contributions Contract) and all HUD-approved applications for program funding.

1.9 MONITORING HAFC PERFORMANCE

1.9.1 *The Section Eight Management Assessment Program (SEMAP)*

[24 CFR 985.3]

SEMAP was designed by HUD as a tool to measure the performance of housing authorities administering the Housing Choice Voucher program and the family self-sufficiency component of the voucher program.

SEMAP is a performance measure tool designed to:

- Assess whether the housing choice voucher program is assisting eligible families to afford decent, safe, and sanitary housing at the correct subsidy cost;
- Measure HAFC performance in key areas of the housing choice voucher program to ensure program integrity and accountability;
- Assist housing authorities in assessing and improving their own program operations; and
- Evaluate whether the HAFC affirmatively furthers fair housing.

1.9.2 *The Fourteen SEMAP Indicators*

SEMAP includes the following 14 performance indicators and one bonus indicator:

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Re-examinations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections

13. Lease-up

14. a. Family Self-Sufficiency Enrollment

b. Percent of FSS Participants with Escrow Account Balances

15. Bonus indicator (De-concentration)

During the HAFC fiscal year, the HAFC will track its own performance on the 14 SEMAP indicators and the deconcentration bonus indicator. Within 60 days of the end of the HAFC fiscal year, the HAFC will complete and submit HUD-52648, SEMAP Certification to HUD.

The certification must attest to the results of quality control review HAFC performed on four indicators: selection from the waiting list; rent reasonableness; determination of adjusted income; and HQS enforcement.

Each indicator is assigned a numerical value, based upon HAFC performance. For indicators 9 through 14, HUD independently assesses and verifies HAFC's performance using data submitted electronically through HUD's Multifamily Tenant Characteristics System (MTCS) using the Family Report, Form HUD-50058 and other available information.

Once all indicators have been scored, the overall score is determined by summing all earned points and dividing by the total possible points.

HUD will prepare a SEMAP profile for HAFC, assign an overall rating, and notify HAFC in writing of its rating on each SEMAP indicator, its overall SEMAP scores and its overall rating.

There are four possible ratings:

- High Performer Rating: score of 90 percent or higher
- Standard Performer Rating: score of 60 percent to 89 percent
- Troubled Performer Rating: score of less than 60 percent
- Modified or Withheld Rating: only when warranted by special circumstances

If the HAFC receives a troubled rating, the HUD field office must conduct an on-site confirmatory review before changing the rating to either "standard performer" or high performer".

The HAFC is required to correct any performance deficiencies within 45 days of notification by HUD. If the HAFC is unable to correct deficiencies within 45 days, it must submit a corrective action plan for each deficiency within 30 calendar

days from the date of the HUD notice.

1.9.3 SEMAP Compliance Goals

The HAFC commits to administer its programs with a high degree of efficiency; therefore, the department has set the following goals:

- Determining whether at least 98% of families were selected from the waiting list in accordance with the Admin Plan policies and met the selection criteria that determine their placement on the waiting list and the order selection.
- Determining whether at least 98% of randomly selected tenant files indicate that the HAFC approved reasonable rents to the owner at the time of initial lease-up and before any increase in rent and at the anniversary date (if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary).
- Determining at the time of admission and reexamination that in at least 90% of cases sampled, the HAFC properly did the following:
 - a) Obtained 3rd Party verification of adjusted income or documented why 3rd party verification was not available;
 - b) Used the verified information in determining the adjusted income;
 - c) Properly attributed allowances for expenses; and
 - d) Where the family is responsible for utilities under the lease, the HAFC used the appropriate utility allowances for the unit leased in determining the gross rent.
- The HAFC reviews utility rate data that it obtained within the last 12 months, and adjusts its utility allowance schedule if there has been a change of 10% or more in a utility rate since the last time the utility allowance schedule was revised.
- Determining that during the fiscal year the HAFC performs HQS quality control inspections which meet the minimum sample size required by HUD. A supervisor or other qualified person must reinspect a sample of units under contract from inspections conducted no more than three months prior to the date of the reinspection. The sample of units must represent a cross section of neighborhoods and the work of a cross section of inspectors.
- Determining that a review of selected files indicate that for 100% of life-threatening fail items and for at least 98% of non-emergency items which failed inspection, the HAFC ensures timely correction of HQS deficiencies or abates Housing Assistance Payments (HAPs) or takes vigorous action to enforce family obligations.

- Demonstrating that the HAFC provides families and owners information which actively promotes the de-concentration of assisted families in low-income neighborhoods.
- Demonstrating that voucher payment standards are not less than 90% or more than 110% of the current applicable published FMR, unless a higher or lower payment standard is approved by HUD.
- Determining whether at least 96% of re-exams are processed on time.
- Determining whether at least 98% of all sampled tenant files have had the tenant rent calculated correctly.
- Determining whether at least 98% of newly leased units passed HQS inspections before HAP contract date.
- Determining whether the HAFC performs annual HQS inspections on time for at least 96% of all units under contract.
- Determining whether the percent of units leased during the last HAFC fiscal year was 98% or more, or the percent of allocated budget authority expended during the last HAFC fiscal year was 98% or more.
- Determining whether the HAFC has filled 80 -100% of its FSS slots.
- Demonstrating whether at least 30% of the HAFC's FSS participants have escrow account balances.

1.9.4 Supervisory Monitoring

To ensure quality control, in addition to SEMAP factors above, supervisory monitoring will be conducted in accordance with departmental Performance Standards.

1.9.5 Internal Audits

The Quality Assurance Division conducts monthly audits to document compliance with SEMAP goals, regulatory requirements and department procedures so quality is consistently maintained. If an issue of noncompliance is detected, the matter will be reported with recommendations for corrective actions.

1.10 RECORDS RETENTION

In order to demonstrate compliance with HUD and other pertinent regulations, the HAFC will maintain records, reports and other documentation for three years as outlined in 24 CFR 982.158, and in a manner that will allow a speedy and effective audit.

DRAFT

1.11 TERMINOLOGY

[24 CFR 982.4]

The Housing Authority of Fresno County is referred to as "HAFC" or "Housing Authority" throughout this document.

The Housing Choice Voucher program is referred to as "HCV" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Tenant" is used to refer to participants in terms of their relation to landlords.

"Landlord" and "owner" are used interchangeably.

See Glossary for other terminology.

1.12 DOCUMENT REPRODUCTION POLICY

The Housing Authority will make documents available for review at its Central Office during normal business hours. The cost for reproduction of allowable documents will be according to the department's general policy, which is \$.50 for the first page and \$.30 per page thereafter, plus \$20 per hour for staff time or \$5 per quarter hour or fraction thereof.

1.13 FAIR HOUSING POLICY

[24 CFR 982.54(d)(6)]

It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The HAFC shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the HAFC will provide Federal/State/local information to voucher holders regarding "discrimination" and any recourse available to them if they are victims of discrimination. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the voucher holder's briefing packet.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the HAFC's facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information are displayed in locations throughout the HAFC's office in such a manner as to be easily readable from a wheelchair.

The HAFC's central office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDY telephone service provider.

1.14 ACCOMMODATIONS POLICY

[24 CFR 8.28]

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with the HAFC, when the HAFC initiates contact with a family including when a family applies, and when the HAFC schedules or reschedules appointments of any kind.

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, no otherwise qualified individual with handicaps shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity of the HAFC. The HAFC will take appropriate measures to ensure that an individual with handicaps shall have equal access to available services, programs, and activities offered. Such appropriate measures include, but are not limited to:

- provision of telecommunication devices for the deaf;
- provision of sign language interpreters, as requested;
- utilization of barrier-free meeting places;
- provision of a discrimination complaints procedure;
- a list of accessible units will be provided, when available.

The HAFC may contact and obtain services from one of, but not limited to, the following Agencies to accommodate person with disabilities:

- California State Department of Rehabilitation
- Resources for Independence
- Central Valley Regional Center
- Deaf and Hard of Hearing Service Center, Inc.

- Valley Center for the Blind, Inc.
- Self Help for Hard of Hearing People, Inc.

Accessibility for the hearing impaired is provided by the TDY telephone service provider.

1.14.1 Persons with Disabilities

The HAFC's policies and practices will be designed to provide assurances that all persons with disabilities will be provided an opportunity to request a reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made available on HAFC forms and letters to all families and requests may be verified with a reliable, knowledgeable professional so that the HAFC can properly accommodate the need presented by the disability.

1.14.2 Federal Americans with Disabilities Act of 1990

With respect to an individual, the term "disability" means:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual; or
- A record of such impairment

Individuals with contagious diseases who do not pose a direct threat to others are covered by the Act. AIDS victims and those who test positive for the HIV virus are considered to have a disability.

1.14.3 Definition of Reasonable Accommodation

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Exhibit 2-2 Definition of Person with a Disability under Federal Civil Rights Laws (24 CFR Parts 8.3 and 100.201, is located at the end of this ACOP under "Exhibits". Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the FH, or result in a "fundamental alteration" in the

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nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

1.14.34 Requesting a Reasonable Accommodation

Any family that requests an accommodation will be given a Request for Special Accommodation form.

The process, which can take up to 45 calendar days, includes the following steps:

- Family completes the form, providing: a) the reason accommodation is requested and b) full contact information for the medical professional who can verify the need for the accommodation.
- Fresno Housing will fax a request to the medical professional asking for verification of the need for the requested accommodation.
- Once the response is received, the family will be notified in writing whether the request has been approved or denied.

All requests for an accommodation must be in writing. A resident may request an accommodation for this requirement.

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

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

1.14.45 Approval/Denial of a Requested Accommodation

When reviewing a request for a reasonable accommodation the verification must clearly show that there is a nexus (a direct relationship) between the disability and the accommodation being requested. The need for a requested accommodation will be verified with a reliable, knowledgeable professional. In the absence of a clear nexus, HAFC cannot approve the requested accommodation.

Requests for reasonable accommodation from persons with disabilities must also consider whether granting the request would create an "undue financial and administrative burden" for the HAFC, meaning an action requiring "significant difficulty or expense".

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the accommodation needed;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

Except in cases involving an imminent emergency, decisions on a request for reasonable accommodation or modification shall be made by the RA Coordinator as soon as practicable but in no event later than forty-five (45) calendar days after the request form(s) is completed and the HAFC has received all information needed to make a decision.

All outcomes will be recorded in the RA database.

Approved copies of the Decision on Reasonable Accommodation Request will be sent to the AHD supervisor to execute the reasonable accommodation.

Grievance Procedure for Accommodation Cases

If the family disagrees with an accommodation decision, they may make written request for an informal hearing if made within 10 business days of their disapproval letter. If still displeased with the decision an appeal may be made in writing to the Director of Assisted Housing.

Any additional appeal would be directed to the Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity (FHEO). The family may also, at any time during their appeal with HAFC, simultaneously file an appeal with HUD, FHEO; information about such appeal is available at www.hud.gov/fairhousing.

1.14.56 Additional Policies Regarding Reasonable Accommodation

Additional policies regarding reasonable accommodation are referenced in other chapters throughout this Administrative Plan. The section reference is in parentheses.

- Special accommodation when submitting an application (2.2)
- Higher utility allowances as reasonable accommodation for a person with disabilities (6.20.5)

- Special accommodation when requesting an individual HCV briefing (8.2.4)
- Special accommodation when additional time is needed to search for a unit (8.5.2)
- Special housing types as a reasonable accommodation (9.3.2)
- Waiver of Restriction on Renting to Relatives When Needed for Reasonable Accommodation (9.4)
- Exception Payment Standards When Needed as a Reasonable Accommodation (11.2.2)
- When a Reasonable Accommodation is Needed to Complete the Annual Reexamination (12.4.1)
- When a Reasonable Accommodation is Needed to Move Within the First Year of the HAP Contract (13.3.1)
- When a Reasonable Accommodation is Needed to Move and Balancing is Still Owing (18.4.5)
- Informal Hearing: Rescheduling When Needed as a Reasonable Accommodation for a Person with Disabilities (19.4.4)
- Section 8 Homeownership Program (21.2 and 21.3.1)

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

1.15 WHEN TRANSLATION SERVICES ARE NEEDED

The HAFC will take affirmative steps to communicate with people who need services or information in a language other than English. These will be referred to as Persons with Limited English Proficiency (LEP). LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants. For further information about LEP, see Chapter 20.

The HAFC is committed to providing meaningful access to the Authority's programs and services to all eligible persons, including those who have limited English proficiency because of their national origin. The HAFC has analyzed its operations and the populations it serves, and has developed a Language Assistance Plan which is part of our Five-Year Plan/Annual Plan. The plan

details the steps the HAFC will take to provide meaningful access in connection with our programs and services to these populations. The two primary language assistance needs in the Fresno area are for persons speaking Spanish and Hmong.

1.15.1 Oral Translation

The HAFC has bilingual staff to assist non-English speaking families in Spanish and Hmong and orally translates documents into Spanish and Hmong. Where bilingual staff is not available to interpret for these families, the HAFC will use an online language interpretation service, which offers translation in over 100 languages, to communicate effectively with clients.

1.15.2 Written Translation

In determining whether it is feasible to provide translation of documents written in English into other languages, the HAFC will consider the following factors:

- Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
- Estimated cost to HAFC per client of translation of English written documents into the other language.
- The availability of local organizations to provide translation services to non English -speaking families.
- Availability of bi-lingual staff to provide translation for non-English speaking families.

1.16 PRIVACY RIGHTS

[24 CFR 5.230]

Applicants and participants, including all adults in their households, are required to sign the HUD-9886, Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

The HAFC's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

In the event the HAFC should come into possession of confidential medical information, such information must be kept confidential. The personal information must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by a supervisor. Personal medical information of a confidential nature must not be retained in the client's file.

The HAFC's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

HAFC staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information, or improper disclosure of family information by staff will result in disciplinary action.

1.17 FAMILY OUTREACH

[24 CFR 982.266]

The HAFC will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the HAFC's waiting list is open, the HAFC will publicize the availability and nature of housing assistance for very low income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in other languages.

The HAFC may utilize public service announcements.

The HAFC will communicate the status of housing availability to other service providers in the community, advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

1.18 OWNER OUTREACH

[24 CFR 982.54(d)(5)]

The HAFC encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. Owners may list available units on the agency website at www.fresnohousing.org.

The staff of the HAFC initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

The HAFC has active participation in a community based organization(s) comprised of private property and apartment owners and managers.

The HAFC encourages program participation by owners of units located outside areas of poverty or minority concentration. The purpose of these activities is to provide choicer and better housing opportunities to families. Voucher holders are informed of the full range of areas where they may lease units inside the HAFC's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

The HAFC provides a direct phone line to handle owner questions and concerns. The Owner Services Division, in addition to taking calls daily, has also compiled information regarding commonly asked questions and answers for our website. Owners seeking information or forms can access the website at www.hafresno.org

The HAFC conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

1.19. VIOLENCE AGAINST WOMEN ACT (VAWA) 2013

The Violence Against Women Act of 2013 (VAWA) was signed into law. The Act is intended to protect the rights of victims of domestic violence, dating violence, sexual assault, or stalking. The legislation imposes several important requirements on public housing agencies that operate a Housing Choice Voucher (HCV) program.

One important provision in the Act applies directly to the HAFC as well as to landlords, owners and managers participating in the HCV program. This provision protects victims of domestic violence from being evicted from their subsidized unit or having their housing assistance terminated solely because they are victims as defined under this Act.

Specific policy in regards to VAWA is covered in the following sections in this Administrative Plan:

- Verification under the Violence Against Women Act – See Chapter 7 7.2
- Request to move related to VAWA – See Chapter 13 13.2.5 & 13.3.1
- VAWA and termination of assistance – See Chapter 15 15.6
- Appendix I

CHAPTER 2: APPLICATIONS AND ~~WAITING-INTEREST~~ LIST

[24 CFR 982.201-207]

2.1 INTRODUCTION

The policy of the HAFc is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. At the time the ~~waiting-interest~~ list is open, families wishing to participate in the housing choice voucher program must submit a pre-application providing all information requested by the HAFc. This information allows the HAFc to place each applicant on the ~~waiting-interest~~ list in accordance with the policies in this Administrative Plan.

Random lottery draws will be used as the methodology to select applicants from the interest list to create the waiting list, as needed. A final draw/purge of the interest list will take place annually.

*Interest List: A list of applicants wishing to participate in the random lottery/selection process.

This chapter will explain the policies for the opening and closing of the ~~waiting interest~~ list. It explains the outreach approach and describes how the HAFc accepts pre-applications and how the HAFc maintains the ~~waiting-interest~~ list. The policies that guide the HAFc are outlined and ~~are~~ organized into two sections, as follows:

Section One: Initial Pre-Application Process: This section covers an overview of the initial pre-application intake process. It will explain the HAFc policies on how to notify the public of the opening and closing of the ~~waiting interest~~ list. It also describes how an applicant may apply for rental assistance.

Section Two: Managing the ~~Waiting-Interest~~ List: This section describes the pre-application information required, the structure and establishment of an ~~waiting-interest~~ list and how it is maintained with current and accurate information. It covers the policy regarding removal from the interest list. ~~regarding removal from the waiting list.~~

Other related information such as selection from the waiting list, completion of the full application, and local preferences are covered in Chapter 3. Eligibility for program admission as well as grounds for denial of admissions is covered in Chapter 4.

SECTION ONE: INITIAL PRE-APPLICATION PROCESS

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2.2 OPENING AND CLOSING OF ~~THE WAITLIST~~INTEREST LIST

[24 CFR 982.206, 982.54(d)(1)]

The HAFC announces its intent to open the interest list to accept pre-applications for the purpose of establishing a waiting list by placing a public notice in The Fresno Bee, a local newspaper of general circulation, and also by minority media and other suitable means, including the agency website at www.fresnohousing.org.

The notice will comply with HUD fair housing requirements. The notice will contain:

- The dates, times, and the locations where families may apply.
- The program(s) for which applications will be taken.
- A brief description of the program(s).
- The methods by which pre-applications will be accepted.
- Limitations, if any, on who may apply.
- Should the notice have a closing date, the notice will state that the waitlist will remain open for limited preferences and referral based programs only.

Normally, the opening and closing dates for pre-application intake will be clearly stated in the notice.

~~However, if at the time the interest list is opened, and the closing date for pre-application intake has not yet been determined, the notice will indicate that pre-application intake will be open until further notice. Once it becomes necessary to close the interest list, the HAFC will apply the same advertising methods of broad general circulation for closing the interest list as were used for opening of the interest list.~~

~~However, if at the time the waiting list is opened, the closing date for pre-application intake has not yet been determined, the notice will indicate that pre-application intake will be until further notice. Once it becomes necessary to close the waiting list the HAFC will apply the same advertising methods of broad general circulation for closing the waiting list as were used for opening the waiting list.~~

2.3 FAMILY OUTREACH

[24 CFR 982.266]

The HAFC will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the HAFC's ~~waiting-interest~~ list is open, the HAFC will publicize the availability and nature of housing assistance for very low

income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in other languages.

The HAFC may utilize public service announcements.

2.4 FAIR HOUSING POLICY

[24 CFR 982.54(d)(6)]

It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The HAFC shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, or sexual orientation.

2.5 HOW TO APPLY

The HAFC is permitted by HUD to determine the format and content of ~~pre-applications. For the purpose of establishing an interest list~~ pre-applications. ~~For the purpose of establishing a waiting list~~, pre-applications will be accepted from any family wishing to apply for Housing Choice Voucher rental assistance. The HAFC may select one or more of the following methods for applications:

1. Online
2. By phone
3. By mail
4. Submitted in person
5. By other method as described in the public announcement

At the time the HAFC announces its intent to open the ~~waiting-interest~~ waiting-interest list, the actual methods for accepting pre-applications will be clearly stated in the public announcement and similar outreach methods.

~~If an applicant is disabled and requires special accommodation in submitting a pre-application and the disability is obvious or otherwise known, the HACF will accommodate the request without verifying the disability. If an applicant is disabled and requires special accommodation in submitting a pre-application, the accommodation request must be made in writing prior to the closure of the waiting list.~~ Specific instructions for making a reasonable accommodation request will be included in the public notice and other pre-application outreach

materials.

HAFC must remove an applicant from any other assisted housing programs before the applicant can receive HCV assistance; this is so there is no double subsidy.

Duplicate pre-applications, including pre-applications from a segment of an applicant household, will not be accepted.

2.5.1 Application by Web Application

When this method is available, applicants can apply on-line @ www.fresnohousing.org. Pre-applications may only be submitted online using a computer, smart phone, tablet or other electronic device with Internet access.

2.5.2 Application Intake by Phone or by Mail

When this method is available, pre-applications will be taken by phone or mail. HAFC will record the date and time the pre-application is received.

2.5.3 Application Intake In Person

When this method is available, pre-applications will be completed by the family and HAFC will record the date and time the pre-application is received.

2.5.4 Special Admissions: Assistance Targeted by HUD

[24 CFR 982.203]

If HUD awards the HAFC program funding that is targeted for families living in specified units:

- The HAFC must use the assistance for the families living in these units.
- The HAFC may admit a family that is not on the HAFC waiting list.
- The HAFC must maintain records showing that the family was admitted with HUD-targeted assistance.

The following are examples of types of program funding that may be targeted for a family living in a specified unit:

- A family displaced because of demolition or disposition of a public housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses, or demolishes the project;
- For housing covered by the Low Income Housing Preservation and

Resident Homeownership Act of 1990;

- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173;
- A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

2.5.5 Targeted Admissions

The HAFC may admit an applicant for participation in the HCV program as a special admission or as a waiting list admission. Applicants who are admitted under targeted funding according to procedures will be identified in the automated system and are not maintained on separate waiting lists.

Refer to Chapter 26, Targeted Programs.

2.5.6 Separate ~~Waiting Interest~~ Lists for Housing Authority Programs

In accordance with HUD regulations (24 CFR 982.205 (ii)) at the time an applicant is applying for HCV assistance, if pre-applications are being accepted for its Public Housing or Project-Based program, the family must be offered an opportunity to apply for the other program.

2.5.7 Limited Preference Homeless Program

Approximately 160 vouchers are targeted for limited preferences. These vouchers are targeted for families/individuals in homeless assistance programs and/or initiatives; or special purpose voucher programs, when necessary to prevent homelessness, based on referrals from identified agencies with whom we would partner.

2.5.8 Housing Access and Reentry Pilot Program

The HAFC may consider adopting policies that allows individuals formerly incarcerated to live with their families in assisted housing, while receiving supportive services. An individual who would otherwise be ineligible for assisted housing assistance must have been referred to the HAFC by ~~a~~-any partnering agency and may be considered for housing based on adjusted policy criteria associated with the programs suitability standards, ~~to exclude any period of time~~

from the date of the offense as indicated in Section 4.19. This reentry pilot program proposes to allow approximately 9 individuals to enter the HAFC for the purpose of rejoining other family member households. There is no proposed cap on the number of individuals allowed to enter the HAFC as a newly admitted household (See Section 4.3).

Exceptions to the suitability standards would not be extended to the following HUD required denials [24 CFR 960.204] to the following individuals:

- Persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
- Any person subject to a life time registration requirement under a state sex offender registration program.

SECTION 2: MANAGING THE WAITING-INTEREST LIST

2.6 APPLICATION

[24 CFR 982.204]

Pre-applications will include the following:

For head of household:

- Social Security number
- First, middle initial and last name
- Date of birth
- Gender
- Street address, city, state and zip
- Contact phone number
- Race
- Ethnicity
- E-Mail Address

For other family members:

- Number of other adults
- Gender of other adults
- Number of minors

- Gender of minors

Other information:

- Identify whether any household member is a person with disabilities, and/or a person with a mobility impairment needing an accessible unit (wheelchair accessible)

~~2.7—WAITING LIST ESTABLISHMENT~~

~~[24 CFR 982.204 and 205]~~

~~HUD requires the HAFC to maintain a single waiting list for the HCV program unless it serves more than one county or municipality.~~

2.87 WAITING-INTEREST LIST STRUCTURE

Once the pre-application is completed on-line, the HAFC will place all applicants on the waiting-interest list. Determination of eligibility will not be assessed until the full formal application process which is covered in Chapter 3 under Section Two, *The Full Application Process* and Section Three, *Determining Applicants Eligible or Ineligible*. Families will receive confirmation that their pre-application was accepted and all changes must be made on-line within 10 business days in the Applicant Portal. For persons with disabilities or other reasonable accommodations, see sections 1.14, 1.14.5.

The waiting list will be maintained in accordance with the following guidelines:

- The pre-application will be a permanent file.
- Pre-applications must include as a minimum the following information to be placed on the preliminary waiting-interest list with the following information about each applicant: 1) name; 2) family unit size; 3) date and time of the completed pre-application; 4) information pertaining to possible qualification for a local preference; and 5) race and ethnicity of the head of household.
- ~~Preapplications taken by a method other than lottery or random methodology will be maintained in order of date and time~~

Any information indicating the applicant may qualify for a local preference (e.g., an applicant's certification that they reside within the jurisdiction qualifying them for the Residency Preference) will be accepted without verification at the pre-application stage. Actual entitlement for a local preference will be verified during the full application process.

2.98 APPLICANT STATUS WHILE ON WAITING-INTEREST LIST

[CFR 982.202 (c), 982.204]

Applicants are required to update their mailing address and email address using the online applicant portal within 10 business days of the occurrence. This will also assist the HAFC in establishing and maintaining a current and updated ~~waiting-interest~~ list to more effectively plan for future pre-application intake. Applicants are also required to respond to requests from the HAFC to update information on their pre-application, or to determine their continued interest in assistance.

The ~~waiting-interest~~ list will be maintained with accurate information.

If an applicant is disabled and requires reasonable accommodation in submitting changes, the accommodation request must be made in writing unless the person's disability is obvious or otherwise known.

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

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

2.98.1 Applicant Portal

The Applicant Portal has been established for persons who submit a pre-application with Fresno Housing Authority (FH) so that they may create an on-line account to review and update their personal information, including their current address, as well as indicate their continued interest in remaining on the ~~waiting-interest~~ list. HAFC's method of communication with the applicant may be either by mail or electronic email, therefore, it is critical that applicants have a valid, current mailing address and email address at all times so that HAFC is able to make contact with the applicant when selected from the ~~waiting-interest~~ list.

2.940 PURGING THE ~~WAITING-INTEREST~~ LIST

[24 CFR 982.204 (c)]

The primary goal in purging an interest list is to obtain current information on interested applicants and to remove applicants no longer interested in participating in the program.

The interest list will be purged as needed to ensure that all applicants and applicant information is current and accurate. The HAFC has three methods of purging the interest list:

1. To update the interest list, the HACF may send an update request via first-class mail to each applicant on the interest list. The applicant will be asked whether they have continued interest in the program and the HACF will provide a deadline by which the family must respond. This update request will be sent to the last address that the

~~HACF has on record for the applicant. If no response is received by the deadline, the applicant is removed from the interest list.~~

- ~~2. The HACF may also require applicants to register and create an online applicant portal account so the HAFC may send an email. The applicant will be asked to access their online applicant portal account to save their spot on the interest list and the HAFC will provide a deadline by which the applicant must respond. If no response is received by the deadline, the applicant is removed from the interest list.~~
- ~~3. The HACF may conduct a final draw from the interest list annually. Applicants not included in the final draw will be cancelled from the interest list and notified by email or notified of their status.~~

~~The primary goal in purging a waiting list is to obtain current information on interested applicants and to remove applicants no longer interested in participating in the program.~~

~~The waiting list will be purged as needed to ensure that all applicants and applicant information is current and accurate. The HAFC has two methods of purging the waiting list:~~

- ~~1. To update the waiting list, the HAFC may send an update request via first-class mail to each applicant on the waiting list. The applicant will be asked whether they have continued interested in the program and the HAFC will provide a deadline by which the applicant must respond. This update request will be sent to the last address that the HAFC has on record for the applicant.~~
- ~~2. The HAFC may also require applicants to register and create an online applicant portal account so the HAFC may send an email. The applicant will be asked to access their online applicant portal account to save their spot on the waiting list and the HAFC will provide a deadline by which the applicant must respond.~~

~~If no response is received by the deadline, the applicant is removed from the waiting list.~~

2.104 GROUNDS FOR CANCELLATION FROM THE WAITING-INTEREST LIST

The HAFC ~~will~~may cancel the pre-application and remove the applicant from the ~~waiting-interest~~ list when 1) the applicant does not respond to the HAFC's request for response by a specific date, 2) failure to attend a scheduled appointment, 3) if a letter is returned by the Post Office. 4) or failure to log onto the online applicant portal to save their spot.

If a letter is returned by the Post Office or if the applicant does not save their spot via the online applicant portal, the pre-application will be canceled without further notice. The envelope and letter will be maintained in the file and/or a record of the email sent will be stored electronically.

Applicants may be reinstated after the HAFC has conducted a review of the case and the applicant's request is approved. If the applicant did not respond to the HAFC's request for information or updates, or failed to attend a scheduled

appointment because of an applicant's disability, this fact will be verified and documented, and the HAFC will reinstate the applicant in the former position on the waiting list or reschedule the missed appointment if funding is available.

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CHAPTER 3: SELECTION FROM THE WAITING-INTEREST LIST FOR ADMISSION

[982.54(d)(1); 982.202 (d) 982.204, 982.205, 982.206, 982.207]

3.1 INTRODUCTION

As vouchers become available for admission, the HAFC will perform a draw from its waiting-interest list. Once the draw has been completed, selected applicants will be notified via USPS mail and applicants will be given an opportunity to update their information with HAFC. Preference information will be verified and updated before the applicant is invited to attend a briefing for voucher issuance [24 CFR 982.207]. For information about Applying for Assistance, refer to Chapter 2; or for information about Eligibility for Admission, refer to Chapter 4.

This chapter will describe the following policies:

- Selecting families from the waiting-interest list
- Establishing and verifying preferences
- Completing the full application for final eligibility determination
- Determining applicants are eligible or ineligible
- Completing the application process

SECTION ONE: CREATING AN APPLICATION POOL

3.2 SELECTION FROM WAITING LIST

[24 CFR 982.204]

As vouchers become available, applicants on the waiting-interest list must be selected for assistance in accordance with the policies in this Plan.

~~The order in which applicants are selected from the waiting list depends on the selection method chosen and is impacted in part by any selection preferences for which the applicant selects.~~

It is the HAFC's objective to pull names from the waiting-interest list within a reasonable amount of time and determine if the family is eligible for assistance. The information provided on the pre-application will be verified during this final eligibility process.

3.3 METHOD OF SELECTION

[24 CFR 982.202(d) and 982.207 (c)]

The HAFC selects families from the interest list using the lottery method, in which case, pre-applications will be randomly selected from the interest list and preferences will be

applied.

Families who are selected from the interest list will be placed on the waiting list and contacted by the HAFC to complete a full application process. Applicants may not be placed on the waiting list if they refuse to complete the full application process.

The HAFC selects families from the waiting list according to the date and time of the pre-application, unless the lottery or random selection method is used, in which case, pre-applications will be randomly selected from the waiting list. Preferences will be applied when either method is used.

Families who are selected from the waiting list will be contacted by the HAFC to complete a full application for occupancy. Applicants may not retain their place on the waiting list if they refuse to complete the application process.

The HAFC will conduct its method of selection so there is a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this administrative plan.

3.4 LOCAL PREFERENCES

[24 CFR 982.207]

The HAFC may establish local preferences based upon housing needs and priorities as determined by the HAFC. These local preferences will be based on accepted data sources, after providing an opportunity for public comment, and will consider the public comments received.

Assistance is based on income verification, eligibility requirements, HAFC preference categories and selection method. Before the family is provided assistance, the family's eligibility for the preference is based on the current circumstances and will be verified.

If upon verification, the HAFC determines that the family does not qualify for the preference(s) claimed their pre-application will be removed from the waiting list and canceled.

The HAFC has established local preferences which will be given a cumulative point value to give priority to serving families that meet the preference criteria. Applicants with equal preference points will be randomized amongst other pre-applications with equal points.

If upon verification the HAFC determines that the family does not qualify for the preference claimed, the family does not receive the preference. The applicant will be returned to the waiting list without benefit of the preference.

The HAFC has established local preferences which will be given a cumulative

~~point value to give priority to serving families that meet the preference criteria. Applicants with equal preference points will be selected according to date and time of the application, unless the lottery method is used.~~

1. Residency Preference (15 Points)

~~This local preference would continue to give a preference for applicants who live or work or who is enrolled in school in the City and County of Fresno.~~

~~This is further defined to mean that an applicant must only meet one of the following criteria to be eligible for the Residency Preference:~~

- ~~• The family must live in Fresno County, or~~
- ~~• At least one member must have a job within the limits of Fresno County, or~~
- ~~• Applicants who have been notified that they are hired to work in Fresno County must be treated as a resident, or~~
- ~~• At least one family member of the applicant household is currently enrolled in a Fresno County institution of higher education.~~

~~This local preference would continue to give a preference for applicants who reside and/or work in the City and County of Fresno.~~

~~This is further defined to mean:~~

~~The family must live, or at least one member must have a job, within the limits of Fresno County.~~

~~Applicants who have been notified that they are hired to work in Fresno County must be treated as a resident.~~

~~A resident is also defined to mean at least one family member of the applicant household is currently enrolled in a Fresno County institution of higher education.~~

HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

2. United States Veteran's Preference (10 Points)

This preference applies to active U.S. Armed Forces, veterans and their surviving spouses.

3. Elderly or Disabled Person Preference" (10 Points)

An elderly preference applies if the head, spouse or co-head is a person who is age 62 or older.

A disabled person preference applies if the head, spouse or co-head are one or more of the following:

- Receives Social Security or Supplemental Security benefits or otherwise meets the definition of disabled as defined under Section 223 of the Social Security Act as follows:
 - Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
 - In case of an individual who has attained the age of 55 and is blind inability by reason of such blindness to engage in substantial gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a physical, mental or emotional handicap which:
 - Is expected to be of long and indefinite duration
 - Substantially impeded his/her ability to live independently; and
 - Is of such a nature that the person's ability to live independently could be improved by more suitable housing
- Has a developmental disability as defined in Section 102(7) of the Developmental Assistance and Bill of Rights Act. Developmental disability is defined as a severe, chronic disability which:
 - Is attributable to a mental and/or physical impairment; Was manifested before the age of 22;
 - Is likely to continue indefinitely;
 - Results in substantial functional limitations in three or more of the following areas: capacity for independent living; self-care; receptive and expressive language; learning; mobility; self-direction; and economic self-sufficiency; AND
 - Requires special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

A person may receive no more than 10 total points for the Elderly or Disabled preference category.

3.4.1 Referrals from Law Enforcement Agencies

This preference is subject to the approval of the Executive Director. The HAFC may distribute application forms and may issue a voucher to families or single persons that are referred by law enforcement agencies at any time. The types of referrals that will be considered include, but are not limited to:

- Victims under witness protection programs, or

- Victims of domestic violence.

Law enforcement referrals must be made in writing, on law enforcement agency letterhead, and signed by the requesting officer and his or her immediate supervisor. Eligibility, including background checks, will be confirmed for all members.

3.4.2 Displacement Referrals from Governmental Entities

This preference is subject to the approval of the Executive Director. The HAFC may distribute application forms and may issue a voucher subject to availability to families or single persons that are referred by local governmental officials. The types of referrals that will be considered include, but are not limited, to:

- Persons displaced as the result of a government-declared natural disaster
- Persons displaced as the result of governmental action.

Referrals must be made in writing, on financial institution letterhead or governmental letterhead, and signed by the requesting official and his or her immediate supervisor. Eligibility, including background checks, will be confirmed for all members.

3.4.3 Preference Denial

[24 CFR 982.207]

If upon verification the HAFC determines that the family does not qualify for the preference claimed, the family does not receive the preference and their pre-application will be canceled.

~~If upon verification the HAFC determines that the family does not qualify for the preference claimed, the family does not receive the preference. The applicant will be returned to the waiting list without benefit of the preference.~~

When an applicant falsifies documents or makes false statements regarding a preference, the application will be denied and cancelled. The family will be notified in writing when this occurs, and advised of the family's right to request an informal review. For additional information refer to Chapter 19.

SECTION TWO: THE FULL APPLICATION PROCESS

3.5 FULL APPLICATION COMPLETION

HUD recommends obtaining the information and documents needed to make an eligibility determination through a face-to-face interview.

The HAFC utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by

the family, and to ensure that the information is complete. The interview is also used as a vehicle to provide information about the application and verification process, as well as to advise the family of other HAFC services or programs for which the family may be available.

Applicants will be required to complete an Application for Initial Occupancy packet which **may be** mailed to the applicant in advance to complete.

Being invited to attend an interview does not constitute admission to the program. The head of household and spouse may both be required to attend the interview.

Applicants who want to reschedule an appointment must make the request to reschedule no later than 2 days prior to the original appointment date. If the applicant does not reschedule or misses one scheduled meeting, the HAFC will reject the application.

The family will be required to provide the following information for each family member within the household:

- Applicant name
- Family composition
- Racial or ethnic designation of the head of household
- Names, gender and birth dates for all members DOB
- Relationship to head of household
- Street Address and phone numbers (message and contact numbers)
- Mailing Address (If PO Box or other permanent address)
- Amount(s) and source(s) of income received by all household members
- Assets
- Information regarding disabilities to determine qualifications for allowances and deductions
- Information related to qualification for preferences
- Social Security Numbers
- Citizenship/eligible immigration status
- Answers to questions regarding arrests/convictions for drug-related or violent criminal activity or child molestation
- If applicable, a Request for Specific Accommodation, if needed by a person with disabilities in order to fully utilize program and services
- Current and previous addresses
- Emergency contact person and address

- Questions regarding previous participation in HUD programs

3.6 VERIFICATION

[24 CFR 982.201(e)]

All adult members must sign and complete the Application for Initial Occupancy, HUD Form 9886 (Release of Information), Form HUD-92006, the Declaration of Section 214 Status related to citizenship/immigration and any other documents required by the HAFC. Applicants will be required to sign specific verification forms for information which is not covered by the HUD Form-9886.

Applicants will be required to provide necessary verification which may not be more than 60 days old from the date of the initial eligibility interview. All information provided by the applicant, will be verified, using the verification procedures described in Chapter 7. If information is not supplied or if the family fails to sign any of the forms required, the application may be denied. These and other grounds for denial of admission are described in Chapter 4.

As part of the full application process, the HAFC will verify the family's eligibility for a local preference based on current circumstances and conduct a criminal background screening.

If the information is not supplied or if the family fails to sign any of the forms required, the application may be denied. These and other grounds for denial of admission are described in Chapter 4.

After the verification process is completed, the HAFC will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HAFC, and the current eligibility criteria in effect.

DETERMINING APPLICANTS ELIGIBLE OR INELIGIBLE

WAITING LIST ESTABLISHMENT

[24 CFR 982.204 and 205]

HUD requires the HACF to maintain a single waiting list for the HCV program unless it serves more than one county or municipality.

3.8 FINAL ELIGIBILITY DETERMINATION

[24 CFR 982.201]

Each applicant will be interviewed by HAFC staff to review the information on the

application for Initial Occupancy Packet.

If the HAFC determines at or after the interview that additional information or document(s) are needed, the HAFC will request the document(s) or information in writing. The family will be given 10 calendar days to supply the information. Extensions beyond 10 calendar days may be permitted upon approval of the intake staff member. If the information is not supplied in this time period, the HAFC will provide the family a notification of denial for assistance.

3.9 COMPLETING THE APPLICATION PROCESS

If the family is determined eligible and clearance is received from the criminal background checks for all household members, the family will be notified of the approximate time that assistance should be available. The eligible applicants will be required to attend a briefing appointment.

3.7 FINAL ELIGIBILITY DETERMINATION

[24 CFR 982.201]

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If the HAFC determines at or after the interview that additional information or document(s) are needed, the HAFC will request the document(s) or information in writing. The family will be given 10 calendar days to supply the information. Extensions beyond 10 calendar days may be permitted upon approval of the intake staff member. If the information is not supplied in this time period, the HAFC will provide the family a notification of denial for assistance.

3.8 COMPLETING THE APPLICATION PROCESS

If the family is determined eligible and clearance is received from the criminal background checks for all household members, the family will be notified of the approximate time that assistance should be available. The eligible applicants will be required to attend a briefing appointment.

CHAPTER 4: ELIGIBILITY FOR ADMISSION

4.1 INTRODUCTION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

The HAFC is responsible for ensuring that every individual and family admitted to the Housing Choice Voucher (HCV) program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the HAFC to confirm eligibility and determine the level of the family's assistance. This chapter also covers the grounds for denial of admission and screening for criminal background checks related to this program.

This chapter is divided into three sections.

Section One: This section contains HUD and HAFC definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Section Two: This section discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Section Three: This section covers factors related to denial of assistance and criminal background checks.

SECTION ONE: ELIGIBILITY FACTORS AND DEFINITIONS

4.2 ELIGIBILITY FACTORS AND REQUIREMENTS

There are five eligibility requirements for admission to the HCV program. An applicant must:

- Qualify as a family;
- Have income within the income limits;
- Meet citizenship/eligible immigrant criteria ;
- Provide documentation of Social Security Numbers for each household member; and
- Sign consent authorization documents for each adult in the household.

In addition to the above, in order for a family to be determined eligible the HAFC will conduct criminal background checks using but not limited to FBI finger printing, DOJ Lifetime Sex Offender, and County and Statewide Criminal searches in accordance with this chapter. A family may be denied assistance if the results show evidence which would prohibit admission to the HCV program. For more information, see Section Three in this Chapter. All information provided

by the applicant, will be verified, using the verification procedures described in Chapter 7.

4.3 FAMILY AND HOUSEHOLD

[24 CFR 5.403 FR 02/03/2012 and HUD-50058 IB, p. 13]

The terms family and household have different meanings in the HCV program. A family includes but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- A group of persons residing together and such group includes, but is not limited to:
 - A family with or without children; (A child who is temporarily away from the home up to 18 months, due to placement in foster care should be considered a member of the family);
 - An elderly family; which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides;
 - An near elderly family; which means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, who are living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides;
 - A disabled family; which means a family whose head, co-head, or sole member is a person with a disability; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
 - A displaced family; which means a family in which each member, or whose sole member, is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by Federal disaster relief laws; and
- The remaining member of a tenant family.
- A remaining member of a resident family, meaning a family member of an assisted resident family who remains in the unit when other members of the family have left the unit.

- **:FHA Additional Definition of Family:**

- A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family. Refer to see the section regarding verification of family relationships in Section 7.9.3 of Chapter 7 of this administrative plan.

4.4 DEFINITIONS RELATED TO FAMILY COMPOSITION

- Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.
- "Household" is a broader term that includes additional people who, with the HAFC's permission lives in the assisted unit, such as live-in aides, foster children, and foster adults.

4.4.1 Head of Household

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

4.4.2 Spouse of Head

Spouse means the husband or wife of the head. For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

4.4.3 Co-Head

An individual in the household who is equally responsible for the lease with the head of household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

When an applicant lists a co-head on the initial application, the leasing staff member will ask the applicant to clarify the relationship with the co-head. If the co-head is a spouse or partner, the co-head will be treated as such.

4.4.4 Live-in Aide

[24 CFR 5.403 and *Live-In Aides and HCV Program HUD Fact Sheet 2003*]

A Family may include a live-in aide, provided that such live-in aide:

- Is determined by the HAFC to be essential to the care and well-being of an elderly person, near-elderly (50-61) person, or a person with disabilities,
- Is not obligated for the support of the person(s),
- Would not be living in the unit except to provide care for the person(s), and
- Must be a specific person, who after being approved by the HAFC, will live in the unit as his or her primary residence.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

Occasional, intermittent, multiple or rotating caregivers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances. Program guidance from HUD does provide that on a case-by-case basis an exception to this rule may be granted as explained below:

A family may always request a reasonable accommodation to permit program participation by individuals with disabilities. A family's composition or circumstances may warrant the provision of an additional bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit. Such limited exceptions to the established subsidy standards are permitted under [24 CFR Section 982.402\(b\)\(8\)](#). The PHA will consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation. The PHA shall document the justification for all granted exceptions.

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- Live-in aides are not considered a remaining member of the tenant family, which means that they are not entitled to retain the voucher if the eligible family member(s) voluntarily leave the program, are terminated from the program, or have a voucher that expires.

4.5 VERIFICATION OF NEED FOR A LIVE-IN AIDE

A live-in aide may only reside in the unit with the approval of the HAFC. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly (age 62 or older), near-elderly (50-61) or a person with disabilities. See Glossary for person with disabilities.

4.6 APPROVAL OR DISAPPROVAL OF A PARTICULAR PERSON AS A LIVE-IN AIDE

A live-in aide may only reside in the unit with the approval of the HAFC. At any time, the HAFC may refuse to approve a particular person as a live-in aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity;
- The person currently owes rent or other amounts to the HAFC or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act;
- The person does not pass the HAFC's criminal background check requirements; or
- Does not reside in the unit, but has a residence elsewhere

4.7 SPLIT HOUSEHOLDS PRIOR TO VOUCHER ISSUANCE

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the HAFC will make the decision taking into consideration the following factors:

- Which family member applied as head of household.
- Which family unit retains the children or any disabled or elderly members.
- Restrictions that were in place at the time the family applied.
- Role of domestic violence in the split.
- Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the HAFC.

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4.8 MULTIPLE FAMILIES IN THE SAME HOUSEHOLD

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

4.9 JOINT CUSTODY OF CHILDREN

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. The term, "51% of the time" is defined as 183 days of the year, which do not have to run consecutively. When both parents are on the Waiting List and both are trying to claim the child, additional verification pertaining to the care of the child (e.g., court documents, financial documents, CalWorks, etc.) may be required to determine who may claim the child as a dependent.

SECTION TWO: BASIC ELIGIBILITY CRITERIA

After determining the applicant meets the definition of family as described in this chapter, the following eligibility criteria must also be met.

4.10 INCOME LIMITATIONS

[24 CFR 982.201, 982.353, Federal Register Vol.79, No. 122/ 06-25-14]]

In order to determine if the family is income-eligible, the HAFC compares the annual income of the family to the applicable income limit based on the family's size. Except as listed in the low-income categories below, families must have incomes at or below 50% of the Area Median Income.

Income Targeting Requirements. For each fiscal year, not less than 75% of its new admissions must have incomes at the greater of the Federal poverty level or 30 percent of area median income. In addition the new ELI limits cannot exceed the Very Low-Income (VLI) limits; therefore, in some cases the ELI limits are identical to the VLI. Tracking will be done to ensure the HAFC does not exceed these income targeting limits. Families whose annual income exceeds the income limit will be denied admission and offered an informal review. For income targeting purposes, if a family's income at admission qualifies it under both the ELI limits and the VLI limits, the family will be qualified under the ELI limits.

In order to be eligible for assistance, an applicant must be either:

- A very low-income family; or
- A low-income family in any of the following categories:
 - A low-income family that is continuously assisted under the 1937 Housing Act. (An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 90

days of voucher issuance. Programs include Public Housing, all Housing Choice programs, and all Section 23 programs).

- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.
- A low-income or moderate-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- As a local policy, the HAFC will permit admission of additional categories of low-income families who meet the requirements specified in Chapter 3 of the Plan, "Referrals from Law Enforcement Agencies" and "Displacement Referrals from Governmental Entities".

4.10.1 Portability

For initial lease-up, families who exercise portability must be within the very low-income limit for the jurisdiction of the receiving housing authority in which they want to live. For more information related to portability refer to Chapter 13.

4.11 MANDATORY SOCIAL SECURITY NUMBERS

[24 CFR 5.216, 5.218]

Applicant families may not be admitted until all members of the household have met the SSN disclosure and documentation requirements. [Refer to Ch. 7 for SSN Verification Requirements].

4.12 CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS

[24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD in 24 CFR 5.504 and 5.508. For the citizenship/eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined. [Refer to Ch. 7 for Verification Requirements for determining Citizenship/Eligible Immigration Status].

4.12.1 Mixed Families

A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

4.12.2 No Eligible Members

Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

4.12.3 Non-Citizen Students

Defined by HUD in the non-citizen regulations are not eligible for assistance.

4.12.4 Appeals

For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

4.12.5 When to Verify Citizenship/Eligible Immigration Status

Evidence of citizenship/eligible immigrant status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher, unless the HAFC determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

4.13 FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.230, HCV GB, p. 5-13]

HUD requires consent by assistance applicants and participants. Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms: HUD-9886, Authorization for the Release of Information/Privacy Act Notice and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

4.14 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

[24 CFR 5.612]

The implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both full and part time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education, is under the age of 24, not a veteran, is not married and does not have a dependent child and is not a person with disabilities receiving HCV assistance as of 11/20/05 the student eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be

income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined **independent** from his/her parents and accordance with HAFC policy, the income of the student's parents will not be considered in determining the student's eligibility.

Definition of "Independent Student"

This notice brings HUD's guidance into conformity with the updated HEA definition and ED's definition of "independent student." ED's definition of "independent student" is one of the criteria in HUD's 2006 supplementary guidance for PHAs, owners and managers to use in verifying whether a student is "independent." Specifically, HUD is updating the definition of "independent student" to include the more expansive definition found in HEA, as amended by the College Cost Reduction and Access Act of 2007.

ED's definition of "independent student", which now applies is:

- a. The individual is 24 years of age or older by December 31 of the award year;
- b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
- c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- d. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
- e. The individual is a graduate or professional student;
- f. The individual is a married individual;
- g. The individual has legal dependents other than a spouse;
- h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 *et seq.*), or as unaccompanied, at risk of homelessness, and self-supporting, by—
 - (i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;

(ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;

(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

4.15 RESTRICTION ON ELIGIBILITY OF STUDENTS

[24 CFR 5.612]

The student rule applies to all students who are applying as individuals, apart from their parents. The rule applies to students enrolled as a full or part-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential.

This does not apply to the following students:

- Students who are living with his/her parents
- Students who are applying for or receiving Section 8 assistance
- Students who are classified as a Vulnerable Youth
- Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

No assistance shall be provided to any individual student that meets the following criteria:

- Is enrolled as a student at an institution of higher education, as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C.1002), and is
- Under the age of 24,
- Not a veteran,
- Unmarried, or
- Does not have a dependent child.

Unless the student is determined independent from his or her parents, the eligibility of a student seeking assistance will be based on the income of both student and the parents. The student must be determined income eligible for assistance based on whether the student's parents, individually or jointly, are income eligible for assistance. Both the student's income and the parent's income must be separately assessed for income eligibility.

HUD defines "*parents*" for the purposes of Section 8 programs to mean the biological or adoptive parents, or guardians (e.g., step-parents, grandparents, aunt/uncle, godparents, etc.).
The HAFC will adopt this definition without adding any further stipulations.

The HAFC will adopt the following definition of "*veteran*" for the purposes of this section to mean a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

SECTION THREE: DENIAL OF ASSISTANCE

This section describes the reasons why an applicant may be denied assistance.

A family that does not meet eligibility requirements will be notified in writing of the reason for denial and given an opportunity to request an informal review; or an informal hearing if they were denied due to non-citizen status. See Chapter 19, "Complaints and Appeals" for additional information about reviews and hearings.

This section also describes the HAFC's policy regarding conducting criminal background checks which may result in the denial of admission.

General Definitions:

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

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

Other criminal activity means any criminal activity including, but not limited to, violent criminal activity.

"Currently engaged in" is defined as any use or possession of illegal drugs during the previous twelve months.

“Pattern of abuse” is defined as the use of a controlled substance or alcohol if there are more than three incidents during the previous 24 months. “Incident” includes but is not limited to arrests, convictions, no contest pleas, fines, and city ordinance violations.

“Threatened” refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

4.16 DENIAL OF ASSISTANCE, WHEN IT APPLIES

Denial of assistance includes any of the following [24 CFR 982.552(a)(2):

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

4.17 PROHIBITED ADMISSION CRITERIA

[24 CFR 982.202(b)]

Denial of admission to the program may not be based on:

- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the HAFC's jurisdiction (See Chapter 13, Portability.)
- Certain family characteristics, such as:
 - Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
 - Discrimination because a family includes children;
 - Discrimination because of age, race, color, religion, sex, or national origin;
 - Discrimination because of disability;
 - Whether a family decides to participate in a family self-sufficiency program; or
 - Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking.

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4.18 MANDATORY DENIAL OF ASSISTANCE

[24 CFR 982.553(a)]

HUD regulations require mandatory denial of assistance for the reasons listed below, with the following clarifiers:

1. **Methamphetamine** – if any member of the household has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing [24 CFR 982.553 (a)(1)(ii)(C)].
2. **Lifetime Registration** - If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program [24 CFR 982.553 (a) (2)].
3. **Criminal Activity (Drug-Related)** - Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. However, the HAFC will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the HAFC is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HAFC; or that the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned) [24 CFR 982.553 (a) (1)(i)]
4. **Current illegal drug use for any household members** – if the HAFC determines that any household member is currently engaged in any illegal use of a drug [24 CFR 982.553 (a) (1) (ii) (A)].
5. **A pattern of illegal use of a drug** – if the HAFC determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents [24 CFR 982.553 (a) (1)(ii) (B)]. Admission will be prohibited for up to three years from the date of the offense.
6. **Alcohol Abuse** – if the HAFC determines that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents [24 CFR 982.553 (a) (3)]. Admission will be prohibited for three years from the date of the offense.
7. **Consent Forms** - The HAFC will deny admission if any member of the family fails to sign and submit HUD or HAFC-required consent forms for obtaining information [24 CFR 982.552 (b) (3)].
8. **Citizenship Status** - The HAFC will deny program assistance if no member of the family is a U.S. citizen or eligible immigrant (See Chapter 14) [24 CFR 982.552 (b) (4)].
9. **Social Security Numbers** – The eligibility of an assistance applicant must

be denied if a) s/he does not disclose a SSN and/or provide documentation of such SSN as prescribed in Chapter 7. [PIH 2011-2]; or b) if applicant supplies falsified SSN documentation [PIH 2012-10].

10. **Students in Higher Education** -- If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as described in this chapter; [24 CFR 982.552 (b) (5)].

4.19 ADDITIONAL PROHIBITIONS

[24 CFR 982.552(c), 982.553(a)(2)(ii)]

The HAFC may at any time deny program assistance for any of the following reasons:

- Family Violates Any Family Obligations: If the family violates any family obligations under the HCV program as defined in CFR 24 982.551" [24 CFR 982.552 (c) (1) (i)];
- Evicted from Federally Assisted Housing: If any member of the family has ever been evicted from federally assisted housing in the last five years [24 CFR 982.552 (c) (1) (ii)];
- Past Termination from a HAFC Program: If the HAFC has ever terminated assistance under the program for any member of the family [24 CFR 982.552 (c) (1) (iii)];
- Fraud, Bribery, or Other Corrupt or Criminal Act Within a Federal Housing Program: If any family member has committed such acts in connection with a Federal housing program [24 CFR 982.552 (c) (1) (iv)].
- Outstanding Debt: If the family currently owes rent or other amounts to the HAFC or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act [24 CFR 982.552 (c) (1) (v)];
- Non Reimbursement to HAFC for payments to owners: If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease [24 CFR 982.552 (c) (1) (vi)].
- Repayment Breach with a Housing Authority: If the family breaches an agreement with the HAFC to pay amounts owed to the HAFC , or amounts paid to an owner by the HAFC. (The HAFC, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to the HAFC or amounts paid to an owner by the HAFC. The HAFC may prescribe the terms of the agreement) [24 CFR 982.552 (c) (1) (vii)]
- Actual or Threatened Abusive or Violent Behavior Toward HAFC Personnel: If the family has engaged in or threatened abusive or violent behavior toward HAFC personnel [24 CFR 982.552 (c) (1) (ix)]. "Abusive

or violent behavior toward HAFC personnel” includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for denial of admission.

- Fraud Against Another Agency: Misrepresentation of income or other eligibility factors to an agency other than the HAFC, for example welfare fraud, is grounds for denial of assistance.
- Non compliance with any assistance programs, governmental agency and/or law enforcement.
- An applicant’s misrepresentation of any information related to eligibility, preferences, housing history, allowances, family composition, and/or criminal history.
- Pattern of violent behavior- includes evidence of repeated acts of violence on the part of any individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.

Actual physical abuse or violence will always be cause for denial of admission.

Criminal Activity - [24 CFR 982.553] HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission, certain types of activity.

HAFC Policy - The HAFC may prohibit admission of a household to the program if the HAFC determines that any household member has a history of any of the following prior to admission:

- a. Drug-related criminal activity; up to three years from the date of the offense.
- b. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; up to three years from the date of the offense.
- c. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HAFC (including a HAFC employee or a HAFC contractor, subcontractor or agent); up to three years from the date of the offense.
- d. Violent criminal activity; up to five to seven years from the date of the offense, depending upon the seriousness of the crime committed.
- e. Convicted of any felony; up to three years from the date of the offense.

~~A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.~~

Although an arrest record cannot solely be used for denying or terminating program assistance, an arrest record can trigger an inquiry into whether there is sufficient evidence for the FH to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. FH will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct is fact occurred [PIH 2015-19].

~~An arrest record, however, can trigger an inquiry into whether there is sufficient evidence for a PHA to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. HAFC will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred [PIH 2015-19].~~

4.20 SCREENING FOR ADMISSION

[24 CFR 982.552, 982.553, 5.903, 5.905]

The HAFC is required to screen for eviction and criminal activity as part of the rental assistance program. HUD requires the HAFC to set screening standards to ensure that those persons who are prohibited from being admitted to the program will not receive assistance.

4.20.1 Screening Standards

The screening for eviction and criminal activity will occur after an applicant family has been pulled from the waiting list. All adults (age 18 and above) in the applicant household, including live-in aides, and all incoming families porting into the HAFC's jurisdiction must go through the screening process.

The family will be required to disclose criminal/drug-related activity for all family members at the time of completing their full application. All adult family members must submit a signed Criminal Background Consent form. During the criminal background checks, the HAFC will also check for persons subject to a lifetime registration requirement under a State sex offender registration program.

When conducting a background check the HAFC will obtain the following reports:

- Credit report
- Eviction report
- Criminal background report
- Sex offender report

4.20.2 Factors Relevant to HAFC Criminal Background & Eviction Screening

Prior to making a final determination as to admission relevant to HAFC criminal background and eviction screening, the HAFC will consider factors such as disclosure, completion of rehabilitative treatment for drug-related offenses, and type and longevity of the conviction will be considered. A criminal conviction alone may not necessarily result in the denial of assistance.

4.20.3 Grievance Rights When HAFC Decision is to Deny Admission

If the HAFC obtains criminal record information from a State or local agency showing that a household member has been convicted of a crime relevant to applicant screening, the HAFC will notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant or tenant a copy of such information, and an opportunity to dispute the accuracy and the relevance of the information. This opportunity must be provided before a denial of admission on the basis of such information.

If denied as a result of the criminal background check, HAFC will send a written notification of the denial which will include:

- The reason for the denial,
- The right of an individual to review the evidence regarding his criminal background which was the basis of the denial,
- An explanation of the right to request an informal review, and
- A description of how to obtain the informal review.

The family will be given 10 business days from the date of the HAFC notice, to dispute the accuracy and relevance of the information. If the family does not contact the HAFC to dispute the information within that 10 business day period, the HAFC will proceed with the denial action.

4.20.4 Records Management

[24 5.903 (g)]

Consistent with the limitations on disclosure of records, the HAFC has

established and implemented a system of records management that ensures that any criminal record received by the HAFC from a law enforcement agency is:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HAFC action without institution of a challenge or final disposition of any such litigation.

All eviction and criminal background history is retained by the contracted provider. The HAFC will not print search results unless there is a need to due to an applicant's request for an Informal Review or as needed for review.

Credit reports will be kept in the applicant or participant file for three years.

A copy of the Criminal Background Consent form along with the approval/denial status will be kept in the applicant file.

4.21 Consideration of Circumstances

HUD authorizes the HAFC to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 4.17).

In deciding whether to deny assistance because of action or failure to act by members of the family; the HAFC has [24 CFR 982.552 (c) (2)]:

1. Discretion to consider all relevant circumstances in each case, including the seriousness of the case. The HAFC will use its discretion in reviewing the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the passage of time since the family's action or failure to act.
2. When the ground for denial of assistance is related to criminal activity, such factors as disclosure of the criminal act, completion of rehabilitative treatment for drug-related offenses, and type and longevity since the conviction will be considered.
3. The HAFC may also review the family's more recent history and record of compliance, and the effects of denial of admission on other family members who were not involved in the action or failure to act [24 CFR 982.552 (c) (2) (i)].
4. The HAFC may impose a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The HAFC may permit the other members of a family to be admitted to the program [24 CFR 982.552 (c) (2) (ii)]. If the violating member is a *minor*, the HAFC may consider

individual circumstances with the advice of Juvenile Court officials. The HAFC will also consider whether the culpable member is a victim of domestic violence, dating violence, or stalking.

5. In determining whether to deny admission for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the HAFC [24 CFR 982.552 (c) (2) (iii)]:
 - Will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or
 - Has otherwise been rehabilitated successfully (42 U.S.C. 13661).
 - May require the family to submit evidence of the household member's current participation, or successful completion of a supervised drug or alcohol rehabilitation program.
6. *Reasonable Accommodation*: If denial is based upon behavior resulting from a disability, the HAFC will delay the denial in order to determine if there is an accommodation which would negate the behavior resulting from the disability in accordance with 24 CFR Part 8 of this title.
7. The HAFC will also consider whether the family disclosed the information to the HAFC when completing the certification packet.
8. If an applicant is or has been a victim of domestic violence, dating violence or stalking, this is not an appropriate basis for denial of admission, if the applicant otherwise qualifies for admission.

If the family intentionally, willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the HAFC will deny assistance. In making this determination, the HAFC will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

4.21.1 Required Evidence

The HAFC will use the concept of the preponderance of the evidence as the standard for making all denial decisions.

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

1. *Preponderance of evidence* will not be determined by the number of witnesses, but by the greater weight of all evidence.
2. *Credible evidence* may be obtained from police and/or court records.

Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

3. The HAFC will pursue fact-finding efforts as needed to obtain credible evidence.

4.22 INFORMAL REVIEWS

[24 CFR 982.554]

Details regarding the informal review process and how to request one are covered in Chapter 19.

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CHAPTER 5: SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

5.1 INTRODUCTION

HUD guidelines require that the HAFC establish subsidy standards for the determination of voucher bedroom size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the voucher size also must be within the minimum unit size requirements of HUD's Housing Quality Standards; (HQS); (refer to Chart 5-B in this Chapter). This chapter explains the subsidy standards which will be used to determine the subsidy/voucher size for families of different sizes when they are first determined eligible for the HCV program; as well as the HAFC's procedures when a family's size changes, or a family selects a unit size that is different from the voucher.

5.2 SUBSIDY/VOUCHER SIZE

[24 CFR 982.402]

The HAFC does not determine who shares a living/sleeping room. The HAFC's subsidy standards for determining the family unit size shall be applied in a manner consistent with Fair Housing guidelines. **All standards in this section relate to the size of the subsidy, not the family's actual living arrangements.**

The family unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

HUD regulations stipulate the following about the HAFC's subsidy standards:

- The subsidy standards must provide for the smallest number of bedrooms (referring here to the subsidy) needed to house a family without overcrowding.
- They must be consistent with space requirements under HQS, which require at least one living/sleeping room for every two persons.
- They must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home (less than 12 months) because of placement in foster care is considered a member of the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

- Any live-in aide (approved by the HAFC to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size. The HAFC will not approve an unidentified live-in aide; nor a larger unit than the family qualifies for under the HAFC subsidy standards, for an unidentified aide.

Generally, the HAFC assigns one living/sleeping room to each two people within the following guidelines:

- Live-in aides will be provided a separate bedroom if the assisted unit is the aide's primary residence. No additional bedrooms are provided for the aide's family.
- Additional family members of the live-in aide may not be approved if it would result in the violation of HQS.
- A single person will be allocated a studio subsidy. However, a single person who is elderly or disabled may be allocated a one-bedroom subsidy.

Chart 5-A: Guidelines for Determining Voucher Size

<u>Voucher Size</u>	<u>Persons in Household</u>	<u>Persons in Household</u>
	<u>(Minimum #)</u>	<u>(Maximum #)</u>
<u>0 Bedroom</u>	<u>1</u>	<u>1</u>
<u>1 Bedroom</u>	<u>1</u>	<u>2</u>
<u>2 Bedrooms</u>	<u>3</u>	<u>4</u>
<u>3 Bedrooms</u>	<u>5</u>	<u>6</u>
<u>4 Bedrooms</u>	<u>7</u>	<u>8</u>
<u>5 Bedrooms</u>	<u>9</u>	<u>10</u>
<u>6 Bedrooms</u>	<u>11</u>	<u>12</u>

However, should the HAFC receive sufficient funding of Housing Assistance Payments (HAP) from HUD, the HAFC will analyze its subsidy standards and voucher issuance policy to ensure it meets HUD requirements to expend between 95% and 98% of Budget Authority. Changes to the subsidy standards

will be implemented with a memo from the Executive Director or his/her designee.

5.3 EXCEPTIONS TO THE SUBSIDY STANDARDS

[24 CFR 982.402 (b)(8)]

The HAFC may grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom due to a documented need, such as:

- A verified medical or health reason;
- Elderly persons or persons with disabilities who may require a live-in aide; or
- An exception may be granted, (cases are decided on a case-by-case basis), if there is a medical need for an extra bedroom for medical equipment, which is documented by a health care provider. When considering the necessity of a larger subsidy for medical equipment, all living and sleeping rooms in the unit must be insufficient to meet the disabled person's need.

When an exception to the subsidy standards is approved to accommodate a live-in aide or medical equipment such use will be verified by the HAFC during the annual inspection process.

All reasonable accommodation cases are determined on a case-by-case basis. The submission of a request for an accommodation does not automatically entitle a family to a larger subsidy, or for the accommodation being requested. HAFC may offer an alternate accommodation.

5.3.1 Request for Exceptions to Subsidy Standards

The family may request a larger subsidy/voucher size than indicated by the HAFC's subsidy standards. Such request must be made in writing within 10 business days of the HAFC's determination of subsidy size. The request must explain the need or justification for a larger subsidy. Documentation verifying the need or justification will be required as appropriate.

Requests based on health-related reasons must be verified by a doctor, medical professional, or social service professional.

5.4 CHANGES IN SUBSIDY/ VOUCHER SIZE

5.4.1 Changes for Applicants

The subsidy/voucher size is determined prior to the briefing by comparing the family composition to the HAFC subsidy standards. If an applicant requires a change in the subsidy/voucher size the above guidelines will apply.

5.4.2 *Changes for Participants*

The members of the family residing in the unit must be approved by the HAFC. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the HAFC within 10 calendar days. See “Changes in Family and Household Composition” in Chapter 12 for further information.

5.4.3 *Under-Housed Families (Unit Too Small for Size of Family)*

If a unit does not meet HQS space standards due to an increase in family size, (i.e., the unit is too small), the HAFC will issue a new voucher. The HAFC will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under-housed in an accessible unit.
- If a family requires the additional subsidy because of a health problem which has been verified by the HAFC.

5.4.4 *Over-Housed Families (Unit Too Large Size of Family)*

If a participant has a decrease in the family size, the family has the option to be issued a new voucher or remain in the unit they are renting. If the family chooses to remain in the unit, the subsidy standard will be lowered at the next annual re-examination.

If the family chooses to move, the voucher will be issued with the correct subsidy standard. The amount the family pays for rent must be affordable and the tenant portion of rent cannot exceed 40% of their adjusted income at the time of lease up (24 CFR 982.508). The approved rent will be based on the payment standard for the voucher size the family is eligible for, or the actual number of bedrooms in the unit, whichever is less.

5.4.5 *Enhanced Vouchers*

Under the requirements set forth in PIH Notice 2008-12, the HAFC must require a family who is over-housed with an enhanced voucher to move to an appropriate size unit when one becomes available in the project. If there are more over-housed families than the number of available size units at any given time, the HAFC will determine which over-housed family shall be required to move to the appropriate size unit using a lottery method.

5.5 UNIT SIZE SELECTED

The family may select a different size dwelling than that listed on the voucher. The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the voucher size, provided the dwelling unit meets the applicable HQS space requirements. See Chart 5-B on the next page.

The family may lease an otherwise acceptable dwelling unit with more bedrooms than the voucher size, provided it meets the initial affordability test, where the family does not pay more than 40% of their income towards rent and utilities.

5.6 HQS GUIDELINES FOR UNIT SIZE SELECTED

The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

Chart 5-B: HQS Guidelines for Unit Size Selection	
Unit Bedroom Size	Maximum # in Household
0	2
1	4
2	6
3	8
4	10
5	12
6	14

CHAPTER 6: INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F]

6.1 INTRODUCTION

The accurate calculation of Annual Income and Adjusted Income ensures that families are not paying more or less money for rent than their obligation under the regulations.

This chapter defines the allowable deductions from gross Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). The chapter is divided into three main parts.

Part 1: Annual Income. HUD regulations specify the source of income to include and exclude to arrive at a family's annual income. These requirements and HAFC policies for calculating annual income are found in Part 1.

Part 2: Adjusted Income. Once annual income has been established HUD regulations require the HAFC to subtract from annual income any of five mandatory deductions for which a family qualifies.

Part 3: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and financial hardships affecting minimum rent.

PART 1: ANNUAL INCOME

6.2 ANNUAL INCOME

[24 CFR 5.609]

The general regulatory definition of annual income shown below is from 24 CFR 5.609.

Annual income means all amounts, monetary or not, which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Which are not specifically excluded in Section 6.2.2, Annual Income Exclusions in this chapter.
- Annual income also means amounts derived (during the 12-month period)

from assets to which any member of the family has access.

6.2.1 Annual Income Inclusions

In addition to this general definition, HUD regulations state that annual income includes, but is not limited to the following:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- The net income from the operation of a business or profession;
- Interest, dividends, and other net income of any kind from real or personal property. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation and payments to the widow of a serviceman killed in action). The exception is lump-sum payments caused by delays in processing periodic payments for Social Security or SSI and would not be included as income);
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
- Welfare assistance payments.
- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling. If the amount of child support or alimony received is less than the amount awarded by the court, the HAFC will use the amount awarded by the court unless the family can prove that they are not receiving the full amount and verification of item(s) below are provided. It is the family's responsibility to supply a copy of the divorce decree. The HAFC will accept as verification that the family is receiving an amount less than the award if:

- a. The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/ collection agency, or
 - b. Has filed an enforcement or collection action through an attorney
- All regular pay, special pay and allowances of a member of the Armed Forces (except special pay to a family member serving in the Armed Forces who is exposed to hostile fire)
- For individuals enrolled at an institution of higher education who are under the age of 24, not a veteran, unmarried, and do not have a dependent child, AND are seeking Section 8 assistance in their individual capacity, any financial assistance, in excess of amounts received for tuition and any other required fees, that an individual received under the Higher Education Act of 1965, from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual. Such assistance, however, would not be included for persons over the age of 23 with dependent children. Also the student's parents' income must be considered in determining if the student is income eligible according to guidance given in the HUD Notice, Eligibility of Students for Assisted Housing under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance, published on April 10, 2006.

6.2.2 Annual Income Exclusions

[24 CFR 5.609(c), PIH Notice 2013-04, Federal Register 05-20-14]

Fully excluded income as provided here and in 24 CFR 5.609 (c) no longer requires verification nor inclusion on the HUD-50058, Family Report. HAFc will accept the family's self-certification of fully excluded income. The application or reexamination packet, which is signed by all family members, will serve as the self-certification of the fully excluded income (Amended Effective 05-01-13).

Note: Partially excluded income (e.g., earned income for a full-time student where all is excluded but \$480) does not apply to this provision. Partially excluded income will continue to be verified and reported on the HUD-50058, Family Report (Amended Effective 05-01-13).

The following types of income are excluded:

- Income from employment of children (including foster children) under the age of 18 years;
- Payments received for the care of foster children or foster adults including SSI/SSA;

- Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accidental insurance and workman's compensation), capital gains and settlement for personal property losses (except as provided in 6.2.1 (5);
- Medical reimbursements;
- Income of a live-in aide;
- Subject to 6.2.1(9) above, the full amount of student financial assistance;
- Special armed forces pay (Hostile Fire Pay);
- Amounts received under a resident service stipend;

A resident service stipend is an amount not to exceed \$200 per month received by a resident for performing a service for the HAFC or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving a member of the HAFC's governing board. No resident may receive more than one service stipend during the same period of time.

- Temporary, non-recurring or sporadic income (including gifts);
Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- Earnings for full-time students in excess of \$480 for each student 18 years or older (excluding head or spouse);
- Adoption assistance payment in excess of \$480 per adopted child;
- Developmental disability care payments paid to a family with a member who has a developmental disability; enables the family to offset the cost necessary to keep the member at home;
- Refunds and rebates for property taxes paid on the dwelling unit;
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan for Achieving Self-support (PASS);
- Federally mandated income exclusions listed in Federal Register

- Earned income disallowance.
- Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.
- Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.

For the last exclusion above, the following definitions apply:

“Training Program” - A learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designated to lead to a higher level of proficiency and it enhances the individual’s ability to obtain employment.

Training may include, but is not limited to:

- Classroom training in a specific occupational skill;
- On-the-job training with wages subsidized by the program; or
- Basic education.

“Incremental” - The increase between the total amount of welfare and earnings of a family member prior to enrollment in the training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases or decreases, are treated in the usual manner in determining annual income.

“Supportive Services” - Employment training programs offering supportive services must include at least one of the following, or similar types of social services:

- Child care
- Transportation
- Personal welfare counseling (family-parental development counseling, parenting skills training for adult and teenage parents, substance/alcohol abuse treatment and counseling, self-development counseling);
- Health care services (including outreach and referrals);

- Youth leadership skills; youth mentoring.

The duration of time when the incremental earnings are excluded is for the length of the training program, or until the training ends, whichever comes first. (A training program should have definite goals and a definite ending date. When documenting this type of excludable income, staff will include the anticipated ending date of the training program).

Scenario of this type of excludable income: A family member is receiving \$300 per month in Temporary Assistance to Needy Families (TANF) benefits. She enrolls in a Qualifying State employment training program and receives \$450 per month in training income. The TANF benefits stop.

Action: To determine the incremental amount of earnings and benefits, subtract \$300 (benefits prior to enrollment in the training program) from \$450 (earnings while enrolled in the training program). The incremental amount is \$150. In determining income, \$300 is counted and \$150 is excluded. After completion of the training program, the exclusion ends.

Federally Mandated Income Exclusions

[Federal Register/, 05-20-14]

- (i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- (ii) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
- (iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- (vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- (vii) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from

funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407–8);

- (viii) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs only (U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if that individual is over the age of 23 with dependent children (Pub.L. 109-115, Section 327) (as amended);
- (ix) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);
- (x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange liability litigation, M.D.L. No. 381 (E.D.N.Y.) (Pub. L. 101–201 and 101–39);
- (xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96–420, 25 U.S.C. 1721) pursuant to 25 U.S.C. 1728(c);
- (xii) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- (xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(l));
- (xiv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95–433);
- (xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- (xvi) Any allowance paid under the provisions of 38 U.S.C. 1833c to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-

05), children of women Vietnam veterans born with certain defects (38 U.S.C 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).

- (xvii) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602);
- (xviii) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- (xix) Any amount received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- (xx) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (xxi) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437a(b)(4));
- (xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub.L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs;
- (xxiii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp.2d 10 (Oct 5, 2011 D.D.C.) for a period of one year from the time of receipt of that payment , as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291).
- (xxiv) Any amounts in an "individual development account" s as

provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4));

- (xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
- (xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested programs (42 U.S.C. 5155(d).

6.2.3 Anticipating Annual Income

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

- An imminent change in circumstances is expected; ; or
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]; or
- The HAFC believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)].

When the HAFC cannot easily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HAFC will review and analyze historical data for patterns of employment, paid benefits and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HAFC to show why the historic pattern does not represent the family's anticipated income.

6.3 MINIMUM INCOME

There is no minimum income requirement.

If the family reports zero annual income, the HAFC will require the family to attend an appointment to complete the Monthly Living Expense worksheet and sign a zero income affidavit. The HAFC may require the family to complete an interim every 120 calendar days as long as they report zero income. If the family's expenses exceed its known income, the HAFC will question the family about contributions and gifts.

6.4 LUMP-SUM RECEIPTS

[24 CFR 5.609]

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine the amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

The HAFC will calculate prospectively if the family reported the payment within 10 calendar days and retroactively to date of receipt if the receipt was not reported within that time frame.

6.4.1 Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

- The entire lump-sum payment will be added to the annual income at the time of the interim.
- The HAFC will determine the percent of the year remaining until the next annual recertification as of the date of the interim.
- At the next annual recertification, the HAFC will apply the percentage balance to the lump sum and add it to the rest of the annual income.
- The lump sum will be added in the same way for any interims which occur prior to the next annual recertification.

6.4.2 Retroactive Calculation Methodology

The HAFC will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

The HAFC will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the HAFC.

The family has the choice of paying this "retroactive" amount to the HAFC in a lump sum.

At the HAFC's option, the HAFC may enter into a Repayment Agreement with the family. The family will be required to pay 25% of the retroactive amount due at the time of calculation and remaining balance to be paid in equal payments over a period of time not to exceed 12 months. The maximum amount for which the HAFC will enter into a payment agreement with a family is \$10,000. (Reference Chapter 14 for guidelines for recovery of debts). The amount owed by the family is a collectible debt even if the family becomes unassisted.

6.4.3 Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

6.5 INCOME FROM ASSETS

When the total cash value of family assets is \$5,000 or less, the actual income derived from assets is included in annual income.

When the total cash value of family assets exceeds \$5,000, the amount added to annual income is the greater of:

- The actual income from assets; or
- The imputed income from assets based on the HUD passbook rate as provided by the HUD field office.

"Imputed" means "attributed" or "assigned." Imputing income from assets is assigning an amount of income for the purpose of the annual income calculation. The imputed income is not real income. The family is never required to convert the asset to cash. Income from assets must be counted even if the family does not directly receive the income.

6.5.1 Contributions to Retirement Funds - Assets

Contributions to company retirement/pension funds are handled as follows:

- While an individual is employed, count as assets only the amount the

family has withdrawn without retiring or terminating employment.

- After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

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6.5.2 Assets Disposed Of For Less Than Fair Market Value

The HAFC must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The HAFC will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

The HAFC's minimum threshold for counting assets disposed of for less than Fair Market value is \$1,000.00. If the total value of assets disposed of within a one-year period is less than \$1,000.00, they will not be considered an asset.

6.6 REDUCTION IN BENEFITS

For reduction in benefits such as Social Security and SSI due to overpayments, the HAFC will use the net amount of benefits. Special rules follow below when a family's welfare (TANF) benefit is reduced.

6.6.1 Welfare Benefits

The HAFC must consider the reason a family's welfare benefit has been reduced before the HAFC can determine whether it is appropriate to reduce the rental contribution. The HAFC will apply the following criteria in making this determination.

The HAFC will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits;
- Family Support Division penalty;
- Family sanction because a school-age child is not attending school; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment; e.g., the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

The HAFC **will not reduce** the rental contribution for families whose welfare assistance is reduced specifically because of:

- fraud by a family member in connection with the welfare program; or
- failure to participate in an economic self-sufficiency program; or noncompliance with a work activities requirement.

6.6.2 Verification Before Denying a Request to Reduce Rent

The HAFC will obtain written verification from the welfare agency stating the reason for the family's reduction before denying the family's request for rent reduction.

The welfare agency, at the request of the HAFC, will inform the HAFC of:

- _ Amount and term of specified welfare benefit reduction for the family
- _ Reason for the reduction and subsequent changes in term or amount of reduction.

6.7 ABSENCE POLICY

[24 CFR 982.54(d)(10), 982.551 (i)]

The HAFC must compute all applicable income of every family member whether or not (s)he is on the lease, including anyone who is temporarily absent. Temporarily absent is defined as away from the unit for 180 calendar days or less.

6.7.1 Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit for more than 180 calendar days except as otherwise provided in this chapter. If a member of the household is subject to a court order that restricts him/her from the home for more than 90 calendar days, the person will be considered permanently absent.

6.7.2 Absence Due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the HAFC will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the person permanently confined is the HOH and is the sole household member or the only remaining member in the unit is a live in aide, the assistance will be terminated as of the first of the following month of admission to the nursing home. If the verification indicates that any other family member will return in less than 180 consecutive days due to medical reasons, the family member will not be considered permanently absent.

6.7.3 Absence Due to Full-time Student Status

Full time students who attend school away from the home will be treated in the following manner:

- A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent.
- If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of voucher size.

6.7.4 Absence Due to Incarceration

If the absence of the head of household is due to incarceration for more than 30 consecutive days, s/he will be considered permanently absent. Any other household member will be considered permanently absent if s/he is incarcerated for more than 180 consecutive calendar days in a twelve-month period. The HAFC will determine if the reason for incarceration is for drug-related or violent criminal activity. For further information regarding such activity, see Chapter 15.

6.7.5 Absence of Children Due to Placement in Foster Care

If the family includes a child or children temporarily absent 180 days or less from the home due to placement in foster care, the HAFC will determine from the appropriate agency when the child/children will be returned to the home. After 180 days the child(ren) is considered out of the home for purposes of reducing the voucher size. A special reexamination may be conducted in order to increase the voucher size once it has been determined the child(ren) will be returning to the household.

6.7.6 Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the HAFC will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify the HAFC before they move out of a unit and to give the HAFC information about any family absence from the unit.

Families must notify the HAFC if they are going to be absent from the unit for more than 30 consecutive days.

If it is determined that the family is absent from the unit, the HAFC will not continue assistance payments. HUD regulations require the HAFC to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days. However, if the entire family (including a single member household) is absent from the assisted unit for more than 60 consecutive days without contact, the unit will be considered vacated and the termination of assistance process will be initiated.

"Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, the HAFC may verify the family's absence through visits, calls to the tenant, conversations with landlords, managers or neighbors or post office or utility company inquiries.

A head of household with a disability or spouse of disabled head of household may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar day's limit. If the absence which resulted in termination of assistance was due to the head of household's disability, and the family can verify they were unable to notify the HAFC in accordance with the family's responsibilities, and if funding is available, the HAFC may reinstate the family as an accommodation if requested by the family.

6.7.7 Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the HA will treat that adult as a visitor for the first 90 days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the voucher will be transferred to the caretaker. The care taker must meet program eligibility criteria.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the HA will review the status at 90-day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the HA will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the HA will state in writing that the transfer of the voucher is for that limited time or as long as they have custody of the children. The HA will use discretion as deemed appropriate in determining any further assignment of the voucher on behalf of the children.

The caretaker will be allowed to remain in the unit, as a visitor, until a

determination of custody is made.

The HA will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 120 calendar days and it is reasonable to expect that custody will be granted.

When the HA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The HA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

6.7.8 Absence Due to Death of Household Member

When Social Security Administration reports to HAFC the death of a sole member, HAFC will terminate assistance no later than the first of the month following the date of death. The owner will be notified in writing of the termination.

For all other instances, the HAFC will initiate the interim process as it would with any family reported change of household composition.

6.8 DETERMINING A VISITOR FROM AN UNAUTHORIZED HOUSEHOLD MEMBER

Any adult not included on the HUD-50058 who has been in the unit more than 60 consecutive days without HAFC approval, or a total of 90 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member. Absence of evidence of any other address will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the landlord will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the HAFC will terminate assistance since prior approval was not requested for the addition. In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor will be considered to be an eligible visitor and not a family member.

Note: If the owner's lease stipulates guests are not allowed beyond a specified period which is shorter than HAFC policy, (e.g. visitors may not reside in the unit over two weeks), the lease will prevail over the HAFC policy.

6.9 EARNED INCOME DISALLOWANCE

[24 CFR 5.617; 982.201(b)(3)]

Definition of Earned Income Disallowance

The annual income for qualified disabled families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continues for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment. The amount

that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

Initial Twelve-Month Exclusion

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the HAFC will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

Second Twelve-Month Exclusion and Phase-in

During the second cumulative 12-month period after the expiration of the initial cumulative 12 month period referred to above, the HAFC must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

6.9.1 *Maximum Four Year Disallowance for Eligible Participants Prior to 5/9/2016*

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion. If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion). No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

6.9.2 *Maximum Two Year Disallowance for Eligible Participants Beginning 5/9/2016*

- Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- If the family member discontinues the employment that initially qualified the

family for the EID, the 24–calendar month period continues;

- During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were “used.”

Applicability to Child Care Expense Deductions

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative

12-month period of exclusion (if any)

- Date the family member has received a total of 12 months of the initial exclusion
Date the 12-month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)
- Date the family member has received a total of 12 months of the phase-in exclusion
- Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The HAFC will maintain a tracking system to ensure correct application of the earned income disallowance.

Inapplicability to Admission

The earned income disallowance is only applied to determine the annual income of disabled families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

PART 2: ADJUSTED INCOME

6.10 ADJUSTED INCOME

[24 CFR 5.611]

Adjusted Income is defined as the annual income minus any HUD allowable expenses and deductions. HUD has five allowable deductions from annual income:

1. **Dependent Allowance:** \$480 for each family member who is under 18 years of age or is disabled or is a full-time student
2. **Elderly/Disabled Allowance:** \$400 per family whose head of household or spouse is at least 62 years of age or disabled.
3. **Medical Expenses:** Deducted for all family members of an eligible elderly/disabled family for out of pocket medical expenses not covered by an outside source. (After expenses exceed 3% of annual income which is referred to as the medical threshold.) When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS

publication 502 will be used as a guide.

4. **Child Care Expenses:** Reasonable child care expenses not covered by an outside source may be deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
 - Child care to work or actively seek employment: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work. The person “enabled to work” will be the adult member of the household who earns the least amount of income from working. When an adult is “actively seeking employment” it will be established by acceptable documentation or the child care expense cannot be given. Acceptable documentation may include a record of companies contacted, their business addresses, phone numbers and the dates on which employment was sought. The number of hours of allowable childcare cannot exceed the number of hours worked, plus transportation time, of the person enabled to work.
 - Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school plus transportation time. Amount of expense: The HAFC will survey the local care providers in the community and collect data as a guideline. If the hourly rate materially exceeds the guideline, the HAFC may calculate the allowance using the guideline. Reasonable hours for child care must be proportionate with the number of hours the adult is away due to work, school or actively seeking employment, and will include reasonable travel time to and from those activities. Changes in expenses due to the child's school schedule or other factors will be built into the annual estimation, so that an interim will not be required later on when the child care hours change.
5. **Disability Assistance Expenses:** Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the disabled individual or an adult household member to work.

PART 3: CALCULATING RENT

6.11 TOTAL TENANT PAYMENT (TTP)

The TTP is calculated for each household based on family income. It is used to determine the tenant contribution toward rent. Accurate calculation of annual income and adjusted income ensures that families do not pay more or less for rent than required by the regulations.

TTP is the higher of:

- 30% of monthly adjusted income
- 10% of total monthly gross income,
- Welfare rent , or
- Minimum rent (\$50)

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6.11.1 Family Share

The family share will be the same as the TTP if the unit rented is at or below the Payment Standard (PS). If the unit has a gross rent above the PS, the family share will be the TTP plus any amount that exceeds the PS.

(Note: The family share may not be more than 40% of the adjusted income when the family first moves into an assisted unit).

6.11.2 Housing Assistance Payment (HAP)

The Housing Assistance Payment (HAP) is the lower of:

1. The Payment Standard minus the TTP or
2. The Gross Rent minus the TTP

6.12 MINIMUM RENT

[24 CFR 5.630]

"Minimum rent" is \$50 in the Housing Choice Voucher Program. Minimum rent refers to the minimum Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

Notification to Families for Hardship Exemption Requests

The HAFC will notify those participant families subject to a minimum rent of their right to request a minimum rent hardship exemption under the law as part of the annual recertification process. The HAFC notification will advise the family that hardship exemption determinations are subject to HAFC grievance procedures. The HAFC will promptly review all resident requests for exemption from the minimum rent due to financial hardship. All requests for minimum rent exemption are required to be in writing. Requests must state the circumstance(s) that qualify the family for the exemption. In the event the request is approved, the HAFC will grant the minimum rent hardship exemption either temporarily or long-term depending on the qualifying reason.

6.12.1 Hardship Requests for an Exemption from the Minimum Rent

The HAFC recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The HAFC will review all relevant circumstances brought to the HAFC's attention regarding financial hardship as it applies to the minimum rent. The following section states the HAFC's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed. (24 CFR 5.630) .

6.12.2 Criteria for Hardship Exemption

When the HAFC's Minimum Rent is more than zero and the family is paying the minimum rent, the HAFC must suspend the Minimum Rent in certain specific instances: [24 CFR 5.630]

- When the family has lost eligibility for or is awaiting an eligibility determination for a government assistance program;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment, death in the family, or other circumstances as determined by the HAFC or HUD.

In addition to the HUD hardships, the HAFC has added these hardship qualifications:

- If there is a substantial decrease of income, which was beyond the family's control.
- If there is a substantial increase in expenses, which was beyond the family's control.

If the family requests a hardship exemption, the HAFC will immediately suspend the minimum rent for the family until the HAFC can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature. Hardship exemptions must be approved by a supervisor.

6.12.3 No Hardship

If the HAFC determines no qualifying hardship exists, the minimum rent is imposed retroactively to the time of suspension.

6.12.4 Temporary Hardship

If the HAFC reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The HAFC will offer a repayment agreement in accordance with this policy for any rent not paid during the period of suspension.

Repayment Agreements for Temporary Hardship

The HAFC will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. If the family owes the HAFC money

for rent arrears incurred during the minimum rent period, the HAFC will require that the family pay a 25% initial lump sum with the remaining balance to be paid in equal payments over a period of time not to exceed 12 months under \$2400 or 24 months for any amount in excess of \$2400. Minimum rent arrears that are less than \$50 will be required to be paid in full the first month following the end of the minimum rent period. The HAFC's policies regarding repayment agreements are further discussed in Chapter 18 entitled "Owner or Family Debts to the HAFC."

6.12.5 Long-term Hardship

If the HAFC determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.

6.13 UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS

Where the Utility Allowance exceeds the family's Total Tenant Payment, the HAFC will provide a Utility Reimbursement Payment for the family each month. If the total quarterly reimbursement payment due to the family is equal to or less than \$45, payments may be paid quarterly. If a quarterly payment schedule is implemented, the family may request a financial hardship exemption to receive reimbursements. The HAFC may either reimburse the family on a monthly basis or it may make prospective payments to the family on a quarterly basis when hardship exemptions are granted. The check will be made out directly to the tenant unless the HAFC determines that utility companies should receive the check, in which case the check will be sent to appropriate utility companies without the tenant's written agreement.

6.13.1 Utility Allowance Schedule

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The utility allowance for a family is the lower of:

- 1) The utility allowance amount for the voucher size; or
- 2) The utility allowance amount for the bedroom size of the unit rented by the family.

An exemption may apply for families with a person with disabilities. See Section 6.13.5 for details about this type of request for an accommodation.

Where families provide their own range and refrigerator, the HAFC will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for tenant-provided

ranges and refrigerators will be based on the lower of the cost of leasing the equipment or the cost of purchasing it on an installment plan.

The HAFC must maintain a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplies refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse). The HAFC must give HUD a copy of the utility allowance schedule. At HUD's request, the HAFC also must provide any information or procedures used in preparation of the schedule.

6.13.2 How Utility Allowances are Determined

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative household that occupy housing of similar size and type in the same locality. In developing the schedule, the HAFC must use normal patterns of consumption for the community as whole and current utility rates.

The HAFC's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. However, the HAFC may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

In the utility allowance schedule, the HAFC must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; electric; refrigerator (cost of tenant-supplied refrigerator); range (cost of tenant-supplied range); and other specified housing services. The HAFC must provide a utility allowance for tenant-paid air-conditioning costs if the majority of housing units in the market provide centrally air-conditioned units or there is appropriate wiring for tenant-installed air conditioners. The cost of each utility and housing service category must be stated separately. For each of these categories, the utility allowance schedule must take into consideration unit size (by number of bedrooms), and unit types (e.g., apartment, row-house, town house, single-family detached, and manufactured housing) that are typical in the community. The utility allowance schedule must be prepared and submitted in accordance with HUD requirements on the form prescribed by HUD.

The HAFC must maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule. At HUD's direction, the HAFC must revise the utility allowance schedule to correct any errors, or as necessary to update the schedule.

6.13.3 Revisions of the Utility Allowance Schedule

The HAFC will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

6.13.4 Use of Utility Allowance Schedule

The HAFC must use the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the HAFC subsidy standards). At reexamination, the current utility allowance schedule will apply.

6.13.5 Higher Utility Allowances as Reasonable Accommodation for a Person with Disabilities

On request from a family that includes a person with disabilities, the HAFC must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR Part 8 to make the program accessible to and usable by the family member with a disability.

6.13.6 Energy Efficient Utility Allowances for Tax Credit Properties

"For the purpose of establishing energy efficient utility allowances for tax credit properties, HAFC requested and was granted a waiver of the requirements of 24 Code of Federal Regulations (CFR) 982.517(b) for Parc Grove Commons in May 2011. The HAFC will update its energy efficient utility allowances on an annual basis for the next three years, and maintain all associated data with the waiver for an additional 3 years. Any future new construction projects must have their own approved waiver."

6.14 PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES

[24 CFR 5.520]

6.14.1 When Pro-Ration of Assistance Applies

Pro-ration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

6.14.2 Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

6.15 HAFC POLICY ON REIMBURSEMENT TO FAMILY

HUD regulation states housing authorities are required to reimburse families for overpayment of family share in accordance with HAFC policy.

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CHAPTER 7: VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; HUD HB 74 20.7; PIH 01-15; HUD Guidebook for HCV Program Chart on pgs 5-46 through 5-53]

7.1 INTRODUCTION

HUD regulations require that all factors affecting eligibility and the family's payment must be verified, preferably through direct third-party contact with an independent source. Applicants and program participants must provide true and complete information to the HAFC whenever information is requested; information cannot be altered or incomplete. The HAFC will obtain proper authorization from the family before requesting information from independent sources. All verifications will be kept in the client's file in a way that allows HUD to conduct a speedy and effective audit. The methods of verification are outlined throughout this Chapter and generally apply to all types of income which must be verified.

In addition, before sending for verification from independent sources, the HAFC will utilize upfront income verification (UIV) through the Enterprise Income Verification (EIV) system to verify income as required by HUD and conduct face-to-face appointments to discuss any discrepancies with the family at the time of the certification interview.

Families will be made aware that the HAFC does independent verification. Families are encouraged to fully divulge all factors related to their entitlement and the amount of their subsidy assistance.

Family Disclosure of Information to the HAFC and Verification

HUD regulations require that when a family is assisted under any Section 8 program and receives a letter or notice from HUD requesting information concerning the amount or verification of family income, that family must promptly furnish this information to the HAFC. The HAFC must verify the accuracy of the income information received from the family, and change the amount of the total tenant payment, tenant rent or Section 8 housing assistance payment, or terminate assistance, as appropriate, based on such information.

7.2 ITEMS TO BE VERIFIED

[24 CFR 982.516]

The following is a list of items which must be verified at the time of initial and annual eligibility:

- Reported family annual income and its source – both cash and non-cash..
- Full-time student status including high school students who are 18 or over

at the time of final initial or annual eligibility

- Current assets including assets disposed of for less than fair market value in the preceding two years
- Child care expense if it allows an adult family member to be employed or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family which allow an adult family member to be employed
- Legal identity of all family members
- Disability status for determination of preference, allowances or deductions
- U.S. citizenship/eligible immigrant status
- Social Security Numbers for all family members
- "Preference" status, based upon local preferences
- Familial/marital status when needed for head or spouse definition
- Verification of reduction in benefits for noncompliance in certain programs, such as Welfare to Work sanctions of Calworks benefits
- The HAFC will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance for determination of imputed income and before denying the family's request for rent reduction.
- Verification of foster adults/children from the placement agency
- Verification of being the victim of domestic violence, dating violence or stalking.
- Verification of participation in a federal, state or local training program that is generating income.

7.3 VERIFICATION OF INCOME, METHODS OF VERIFICATION AND TIME ALLOWED

[24 CFR 982.516; 982.201(e) and PIH 2010-19]

The HAFC will verify information regarding income, assets, expenses, and any

other factor which HUD requires us to verify in determining the family's eligibility by following the basic hierarchy shown in 7.3.1. The hierarchy begins with the Upfront Income Verification (such as the Work Number) and the EIV system, a web-based application, which provides HAFC with employment, wage, unemployment compensation and social security benefit information.

Level four states that all participant-provided documents must be an original or authentic document generated by a third party source and dated within a 60-day period preceding the reexamination receipt date or HAFC request date.

Whenever the HAFC cannot obtain third party verification, the HAFC is required to document in the family file the reason(s) why third party verification was not available.

The HAFC must receive information verifying eligibility factors that are current (no more than 60 days old) at the time of voucher issuance.

When processing an annual or interim recertification, verifications are current if they are dated within 60 days of the HAFC request date or reexamination date.

Streamlined Income Determination for any Family Member with Fixed Income (PIH 2016-05)

HAFC may conduct a streamlined reexamination of income for family members with fixed income (applies to participants only). The HAFC will determine whether a source of income is fixed by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. The HAFC may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. The HAFC will document in the file how it made the determination that a source of income is fixed.

The determination will be made by applying a verified cost of living (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

For purposes of this policy provision, the term "fixed income" includes income from:

- Social Security payments, Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, State, local and private pension plans; and
- Other periodic payments received from annuities, insurance policies,

retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

For any family member whose income is determined pursuant to a streamlined income determination, third party verification of all income amounts for all family members must be performed at least every three years.

7.3.1 Hierarchy of Verification

HAFC will begin with the highest level of verification techniques.

PHAs will access the EIV system and obtain an Income Report for each household. The PHA will maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations and interim reexaminations (only ICN Page when there is no household or income discrepancy for interim) of family income and/or composition for level of assistance.

If the Income Report does not contain any employment and income information for the family, the PHA will attempt the next lower level verification technique, as noted in the below chart.

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory)
5	Upfront Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written Third Party Verification	High (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable

		documentation to support dispute)
3	Written Third Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain

of terms in the Verification Hierarchy:

1. Up-front Income Verification (UIV) using HUD's Enterprise Income Verification EIV system
2. Up-front Income Verification (UIV) using non-HUD system
3. Written Third Party Verification (An original or authentic document generated by a third party source)
4. Written Third Party Verification Form (a standardized form to collect information from a third party source)
5. Oral Third-Party Verification (in person or via telephone directly from the third party)
6. Review of Documents
7. Family Declaration or Certification

The HAFC will allow 10 calendar days for the return of written third-party verification form before going to the next method, which is oral verification. The HAFC will document the file as to why Up Front Income Verifications or third party written verifications were not used.

For verification of those subject to the Violence against Women Act (VAWA), the certification must be received 14 working days from applicant's/participant's receipt of the HAFC request.

For applicants, verifications may not be more than 60 days old at the time of voucher issuance.

The HAFC will accept documents dated within the last 12 months, if they are the most recent scheduled report from a given source (e.g. last quarter's quarterly money market account statement).

The HAFC will not delay the processing of an application beyond 10 calendar days because a third party information provider does not return the verification in a timely manner.

7.3.2 Levels of Income Verification

Upfront Income Verification (UIV) (Level 6/5): Upfront income verification (UIV) is information provided directly from a central information collection point, which includes EIV System wage, pension, social security and supplementary (SSI) income, the Work Number for wage income information, the local public assistance provider for CalWorks or TANF income, etc. If this income information is received from this source and is reliable, no other verification is required.

If EIV validates the tenant-reported income, the HAFC uses the CURRENT tenant-provided documents to calculate anticipated annual income. (If additional information is needed, the HAFC will request written third-party verification).

The Work Number is an automated verification system which may also be used to verify tenant-reported income.

Written Third Party Verification (Level 4): An original or authentic document generated by a third party source and dated within a 60-day period preceding the reexamination receipt date or HAFC request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the HUD's position that such tenant-provided documents are written third party verification since these documents originated from a third party source. The HAFC may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.

Note: Documents older than 60 days (from the PHA interview/determination or request date) is acceptable for confirming effective dates of income.

Written Third Party Verification Form (Level 3): Also, known as traditional

third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email. The family will be required to sign an authorization for the information source to release the specified information.

Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.). The HAFC will accept faxed documents.

Oral Third Party Verification (Level 2): Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.

This verification method is commonly used in the event that the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, i.e., ten (10) calendar days.

When third-party oral verification is used, staff will be required to complete the HAFC-created form designed for this purpose, noting with whom they spoke, the date of the conversation, and the facts provided. When third-party oral verification is provided by telephone the HAFC must originate the call.

Non-Third Party Verification Technique

Tenant Declaration (Level 1): The tenant submits an affidavit or notarized statement of reported income and/or expenses to the HAFC. This is the verification method of last resort and should be used when the HAFC has not been successful in obtaining information via all other verification techniques. If UIV or third party is not possible to obtain directly from the source, HAFC staff must document in the tenant file why UIV and third party verification were impossible to obtain and attempt to obtain an oral third party, and document this attempt, before another method is used, such as reviewing family-provided documents. Self-certification means statement under penalty of perjury.

7.3.3 Third Party Verification Requirements

In accordance with 24 CFR §982.516(a)(2) for the HCV programs, HAFC must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

7.3.4 EIV Discrepancies

In accordance with 24 CFR §5.236(b)(2)(3), PHAs are required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not reported by the tenant or there is a substantial difference in the reported income information (an amount equal to or greater than \$2,400, annually) HAFC is required to take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the HAFC is required to request from the third party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively*; and
- Take any other appropriate action as directed by HUD or the HAFC's administrative policies.

These same steps will be followed when unreported and/or underreported is discovered from sources other than EIV (i.e. fraud phone call from outside source or late reporting by family).

No adverse action can be taken against a family until the HAFC has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the HAFC.

*HAFC is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

Note: A substantial difference is defined as an amount equal to or greater than \$2,400, annually.

7.3.5 When HAFC is Required to Request Written Third- Party Verification

HAFC must request written third party verification under the following circumstances:

- When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b));
- When the HAFC requires additional information that is not available in EIV and/or the tenant is unable to provide the HAFC with current acceptable tenant-provided documentation. Examples of additional information,

includes but is not limited to:

- Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
- For new employment: pay rate, number of hours worked per week, pay frequency, etc.
- Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

If third-party verification is received after completing the certification with the documents accepted as provisional verification and there is a discrepancy, the HAFC will:

- Make contact with the parties necessary to resolve any discrepancy,
- Analyze the reason for the discrepancy,
- Explain how the discrepancy was resolved. Where appropriate, the rent will be recalculated and a rent change letter will be sent to reflect the corrected tenant rent portion.

7.4 RELEASE OF INFORMATION

[24 CFR 5.230]

All adult family members, live in aides and adult foster children will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information / Privacy Act Notice and the ES75 for Welfare-to-Work families.

Adult family members are those who are expected to be 18 years of age or older at the time of annual recertification, transfer, or final eligibility determination.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance, for violation of the family obligation to supply any information and to sign consent forms requested by HAFC or HUD.

7.4.1 Type Of File Documentation Required By HUD

[24CFR §5.233(A)(2)(I)]

A. For each **New Admission** (form HUD-50058 action type 1), HAFC is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and

- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
 - iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- B. For each **Historical Adjustment** (form HUD-50058 action type 14), the HAFC is required to do the following:
- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days for the PIC submission date; and
 - ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
 - iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- C. For each **Interim Reexamination** (form HUD-50058 action type 3) of family income and composition, the PHA is required to have the following documentation in the tenant file:
- i. **ICN Page** when there is **no** household income discrepancy noted on the household's Income Discrepancy Report tab **or** Income Discrepancy Report.
- D. For each **Annual Reexamination** (form HUD-50058 action type 2) of family income and composition, the HAFC is required to have the following documentation in the tenant file:
- i. **No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and if necessary ((as determined by HAFC), traditional third party verification form(s).
 - ii. **Disputed EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and/or traditional third party verification form (s) for disputed information.
 - iii. **Tenant-Reported Income Not Verifiable through EIV System:** Current tenant-provided documents, and if necessary (as determined by HAFC), traditional third party verification form(s).

7.5 INCOME TYPES TO BE VERIFIED

7.5.1 *Employment Income*

Verification forms may request the employer to specify the:

- Dates of employment
- Amount and frequency of earnings (If paid twice a month for example, on the 15th and 30th, frequency of pay is 24 times per year. If paid every two weeks, frequency of pay is 26 times per year).
- Expected change in employment status
- Effective date of any anticipated wage increase during next twelve months.
- Year-to-date earnings
- Estimated income from overtime, tips, bonus pay expected during next 12 months
- Anticipated unpaid time off

Acceptable methods of verification include, in this order:

- ELV and current acceptable verification check stubs
- Upfront Verification – Work Number
- Third Party Verification – current tenant supplied third party generated documents
 - A minimum of two current and consecutive check stubs which indicate the employee's gross pay, frequency of pay or year to date earnings.
 - W-2 forms or 1099 forms, plus income tax return forms.
- Third Party Verification Form - Employment verification form completed by the employer.
- Telephone contact with employer documented on HAFC's oral verification form.
- Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

7.5.2 Social Security and Supplemental Security Income (SSI) Income

1. Report supplied through Enterprise Income Verification (EIV) showing the amount of benefits and the current pay status.
2. If EIV is unavailable or does not reflect what the client reports, ask client to provide a current benefit verification letter from the Social Security Administration.

Note: Social Security benefit information in EIV is updated every three months. If the family agrees with the EIV-reported benefit information, HAFC does not need to obtain or request a benefit verification letter from the family.

7.5.3 Unemployment Compensation

- Report supplied through Enterprise Income Verification (EIV) showing the amount of benefits and the current pay status.
- Mail EDD form to Sacramento for written third-party verification.
- Telephone contact with appropriate agency is documented in HAFC file.
- Copies of checks or records from agency provided by applicant/participant stating payment amounts and dates; or benefit notification letter or Employment Development Department (EDD) printout provided by applicant/participant.

7.5.4 Welfare Payments

1. WHIS or Notice of Action provided by applicant/participant.
2. Self-declaration by family or by applicant/participant is not applicable.

7.5.5 Students and HCV assistance in their Individual Capacity

The restriction on eligibility of students is covered in Chapter 4 of this Plan.

Income must be verified for the student according to all other regular verification requirements stated in this Administrative Plan, with the following exception:

As it relates to the verification of a parent(s) income, the HAFC may accept from a parent(s) a declaration and certification of income, which includes a penalty of perjury.

For the purposes of determining eligibility of a person to receive assistance under the Eligibility of Students rule, refer to Chapter 6.2.1.

7.5.6 Alimony or Child Support Payments

1. Written third party can include:
 - Copy of a separation or settlement agreement or a divorce decree provided by the court stating amount and type of support and payment schedules; or
 - Print out supplied directly to the HAFC by Family Support Division or other agency showing amount of child support being paid to client; or
 - A signed and dated letter from the non-custodial person.
2. Telephone contact with non-custodial person or income source documented by HAFC in client file.
3. Documentation provided by the applicant/participant
 - Printout from Family Support Division
4. A written statement from an attorney certifying that a collection or enforcement action has been filed.

7.5.7 Self Employment Income

[24 CFR.5.609 (b)(2)]

In order to verify the net income from self-employment, the HAFC will view IRS federal income tax return, and financial documents from prior years and use this information to anticipate the income for the next twelve months. The family must provide a copy of its prior year's federal income tax return, if it was filed.

Acceptable methods of verification include:

- IRS Form 1040, including:
 - Schedule C (Small Business)
 - Schedule E (Rental Property Income)
 - Schedule F (Farm Income)

Note: If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

Note: If client does not have a copy of his tax return, he can request from IRS Form 4506, to obtain copy of the return.

2. Third-party verification from customers as to how much they paid the self-employed person.
3. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

Note: This type of verification is only acceptable until the HAFC educates the family on the verification method required of the family; the HAFC may require the family come back in 90 days for an interim appointment with the verifications required for this type of income.

7.5.8 Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the HAFC will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

The family must provide a copy of its federal income tax return, if it was filed. If child care services were terminated, a third-party verification will be sent to the parent whose child was cared for.

7.5.9 Regular Contributions and Gifts

[24 CFR 5.609]

Regular contributions and gifts received from persons outside the assisted household are counted as income. It does not include casual contributions or sporadic gifts. If the family's expenses exceed its reported income, the HAFC will inquire of the family regarding contributions and gifts.

The family must furnish the following information:

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

The HAFC will verify information provided by participants. A verification form will be sent to the provider for certification purposes.

7.5.10 Zero Income Status

The HAFC will employ the use of the UIV process (e.g., TANF, EIV, EDD work history) and other written third party verifications when the family claims to have no other income.

The HAFC may request information from the State Employment Development Department.

7.5.11 Full-Time Student Status

Only the first \$480 of the earned income of full-time students, other than head or spouse, will be counted towards family income.

Financial aid, scholarships and grants received by full-time students is not counted towards family income.

Verification of full-time student status includes:

- Written verification from the registrar's office or other school official indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.
- Oral third-party must be documented in the applicant/participant file.
- If verification cannot be received directly from the educational institution to the HAFC, the file must be documented with the reason.

7.6 INCOME FROM ASSETS

Acceptable methods of verification include, in this order:

7.6.1 Savings Account Interest Income and Dividends

Will be verified as follows:

1. Account statements, passbooks, certificates of deposit, or HAFC verification forms completed by the financial institution. Please refer to Section 7.7 below regarding a temporary policy related to assets.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that the HAFC must adjust the information to project earnings expected for the next 12 months.

7.6.2 Interest Income from Mortgages or Similar Arrangements

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

7.6.3 Net Rental Income from Property Owned by Family

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

7.7 VERIFICATION OF ASSETS

The HAFC will obtain third-party verification of all family assets upon admitting a family to the Housing Choice Voucher program and then again every 3 years thereafter.

Whenever a family member is added, the HAFC will obtain third-party verification of that family member's assets.

The HAFC will require the following necessary information to determine the current cash value, (the net amount the family would receive if the asset were converted to cash):

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- HAFC will accept a family's declaration of the amount of assets of less than \$5,000 and the amount of income expected to be received from those assets. The documentation in the annual reexamination packet,

which has the signatures of all adult family members, can serve as the declaration.

- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.

7.7.1 Assets Disposed of for Less than Fair Market Value (FMV)

At certification and re-certification, the HAFC will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies it has disposed of assets for less than fair market value, documentation is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition.

7.8 VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME

7.8.1 Child Care Expenses

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, he or she must provide a statement of the amount they are charging the family for their services.
2. Verifications must specify the child care provider's name, address, telephone number, social security number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including adjusted figures for school and vacation periods.
3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

7.8.2 Medical Expenses

If the head of household or spouse is at least 62, handicapped or disabled, the family is eligible for the medical expense deduction. If the household is eligible for a medical expense deduction, the medical expenses of all family members

are counted.

The IRS Publication 502 will be used as a guide to assist in determining allowable medical expenses in instances when the regulations or HAFC policies are unclear.

Medical expenses are expenses anticipated for the 12 months following the certification or recertification, which are not covered by an outside source such as insurance and not reimbursed by an outside source, and which exceed three percent of the gross annual income of the family.

Families who claim medical expenses, must submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source.

All expense claims will be verified by one or more of the methods listed below:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of
 - (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and
 - (b) the expenses to be reimbursed by insurance company, or employer, of health insurance premiums to be paid by the family or a government agency.
- Written confirmation from the Social Security Administration on Medicare premiums to be paid by the family over the next twelve months. A computer printout or a copy of award letter indicating Medicare deductions will be accepted.

For attendant care:

- A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Documentation Provided by the Family may include:

- Receipts, canceled checks, or pay stubs that clearly reflect and describe medical costs and insurance expenses likely to be incurred in the next twelve months.

- Copies of payment agreements or most recent invoices that verify payments made on outstanding medical bills which will continue over all or part of the next twelve months.
- Receipts or other record of medical expenses incurred during the past twelve months that can be used to anticipate future medical expenses. HAFC may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

Note: The HAFC will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

7.8.3 Disability Assistance Expenses

[24 CFR 8.28 and 24 CFR 5.603(b)]

Families may deduct anticipated expenses for attendant care and any auxiliary apparatus for disabled family members if these:

- Exceed 3 percent of annual income;
- Enable an adult family member (including the disabled family member) to work; and
- Do not exceed the earned income of the household member(s) enabled to work.

1. In All Cases:

- a. Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
- b. Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

2. Attendant Care:

- a. Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided. And, written certification from doctor or rehabilitation agency that care is necessary to employment of household member. (Always obtain this).
- b. Certification of family and attendant and/or copies of canceled checks family used to make payments.

3. Auxiliary Apparatus expense verifications include:

Receipts for purchases, or proof of monthly payments, and maintenance expenses for auxiliary apparatus; or written certification from doctor or rehabilitation agency that use of apparatus is necessary to employment of any household member. In case where the disabled person is employed, statement from employer that apparatus is necessary for employment.

7.8.4 Medicare Prescription Drug

The permanent Medicare Prescription Drug Plan benefit took effect January 1, 2006. HAFC's must treat any Medicare prescription drug discount cards and transitional assistance received by a family as a standard medical deduction so that the family continues to receive a deduction for the full cost of its prescription drugs.

- This means that neither the drug discount nor the transitional assistance should be considered in reimbursement for the purpose of calculating the family's medical expense deduction.
- This also means that the HAFC must verify the FULL cost of the family's prescription drugs, not the out-of-pocket cost to the family.

7.9 VERIFYING NON-FINANCIAL FACTORS

7.9.1 Verification of Legal Identity

In order to prevent program abuse, the HAFC will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Certificate of Birth, naturalization papers
- Current, valid Driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Department of Motor Vehicles Identification Card

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of Birth

- Adoption papers

7.9.2 Verification of Marital Status

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage certificate.

7.9.3 Familial Relationships

The following verifications will always be required if applicable:

1. Verification of Family Relationship Due to Blood:
 - Birth Certificates
 - Baptismal certificates
2. Verification of Guardianship is:
 - Court-ordered assignment
 - Verification from social services agency
 - School record
3. Verification of Adoption is:
 - Any legal document showing evidence of the adoption
 - Verification from social services agency
 - School record
4. Verification of Family Relationship under Operation of Law:
 - Any legal document showing evidence of the relationship; this will vary depending upon the operation of law. For example, for verification of a Registered Domestic Partnership established in California, ask for a copy from each partner of the Declaration of Domestic Partnership that was filed with the Secretary of State.
5. When the Family is not Related by Blood, Marriage, Adoption, or Other Operation of Law, Evidence of:

- Joint bank accounts or other shared financial transactions
- Leases or other evidence of prior cohabitation
- Credit reports showing relationship

7.9.4 Verification of Permanent Absence of Family Member

If an adult member who was formerly a member of the household is reported permanently absent by the family, the HAFC will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- If no other proof can be provided, the HAFC will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.
- If the adult family member is incarcerated, a document or verbal verification from the court or prison should be obtained stating how long they will be incarcerated.

7.9.5 Verification of Change in Family Composition

The HAFC may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

7.9.6 Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

If the HAFC gets written certification that the disability is permanent, the HAFC will only require documentation of disability one time.

Targeted programs serving the disabled population are referral-based programs. The referring agency will certify on the referral form that the client is disabled, will maintain clinical analysis records in their files, and attach the signed physician's certification that the client meets the HUD definition of disability. (Needed only if client is not already receiving Social Security or SSI disability benefits).

7.9.7 Verification of Citizenship/Eligible Immigrant Status

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the HAFC hearing is pending.

- a. Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The HAFC will require citizens to provide documentation of citizenship.

Acceptable documentation will include at least one of the following original documents:

- United States birth certificate
 - United States passport
 - Resident alien/registration card
 - Social security card
 - Other appropriate documentation as determined by the HAFC
- b. Eligible Immigrants age 62 and over are required to sign a declaration of eligible immigration status and provide proof of age.
 - c. Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The HAFC verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HAFC must request within ten days that the INS conduct a manual search.
 - d. Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members

signed by the head of household or spouse.

- e. Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

For participants, it is done at the first regular recertification after June 19, 1995. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the Initial Housing Authority does not supply the documents, the HAFC must conduct the determination.

Extensions of Time to Provide Documents

The HAFC will grant an extension of up to 30 calendar days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above

documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If the HAFC determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for 24 months, unless the ineligible individual has already been considered in prorating the family's assistance [24 CFR 5.514(c)(1)(iii)].

7.9.8 Verification of Social Security Numbers

[24 CFR 5.216]

SSN Disclosure

In accordance with 24 CFR 5.216, applicants and participants (including live-in aides, foster children, and foster adults) are required to disclose his/her SSN as part of HUD's mandatory income matching program, with the exception of the following individuals:

Individuals exempt from disclosure:

- Individuals who do not contend to have eligible immigration status
- Tenants age 62 or older as of 01/31/2010
- Tenants who have previously disclosed a valid SSN

Acceptable SSN Documentation

Three forms of documentation of an SSN are acceptable to HUD:

- An original SSN card issued by the Social Security Administration (SSA) (Refer to PIH Notice 2012-10, Section 6 for a description of the three types of SS cards that SSA issues.)
- An original SSA-issued document with the individual's name and SSN
- An original document issued by a federal, state, or local government agency with the individual's name and SSN

Rejection of Documentation

HAFC may not reject documentation of an SSN unless it:

- Is not original,
- It does not appear to be authentic,

- It is not legible, or
- It has been altered or mutilated.

In such cases HAFC should explain the reason for the rejection and request that acceptable documentation be provided **within ten business days of the request date**.

Verification of the SSN

After the Housing Specialist has obtained acceptable documentation of an individual's SSN under the normal certification timelines, the Housing Specialist must;

- Make a copy of the original documentation and retain the copy in the applicant/tenant file;
- Record the SSN on line "3n" of form HUD-50058; and
- Transmit the form to HUD at the time the certification is transmitted in PIC.

After HUD validates the SSN through its computer matching program with SSA, the Housing Program Coordinator may destroy the copy that was made of the SSN documentation and replace it with the household's Summary Report no later than the next annual re-exam. This encourages minimizing the risk of exposing an individual's SSN to theft or misuse by minimizing the number of records that display the individual's full nine-digit SSN. The report is confirmation of compliance with the new SSN disclosure, documentation, and verification requirements.

HAFC will retain EIV reports in tenant files "for the duration of tenancy" and up to three years after program participation ends.

Individuals without an Assigned SSN

Citizens and lawfully present noncitizens who state that they have not been assigned an SSN by the SSA will make such declaration in writing and under penalties of perjury to HAFC. HAFC will maintain the declaration in the tenant file "for the duration of tenancy" and up to three years after program participation ends.

HAFC will use the Alternate ID generator within PIC to generate a unique identifier for those individuals who do not have or are unable to disclose a SSN. Once an individual discloses a SSN, HAFC will use the tenant id management tool to replace the alternate id with the disclosed SSN within 30 calendar days of receipt of the SSN.

Addition of a New Household Member

When a participant requests to add a new household member, who is at least six years of age or under the age of six and has an assigned SSN, to the family the participant:

- Must disclose the SSN and provide documentation of the SSN to HAFC at the time of request to add new household member.
- The new household member cannot be added to the family composition until the family has complied with the SSN disclosure and verification requirements.

Children under age six without an assigned SSN may be added, with a grace period of 90 days to provide SSN documentation. HAFC may extend time frame for an additional 90 days (for a total of 180 days) if HAFC, in its discretion, determines that the participant's failure to comply was due to unforeseen circumstances outside the control of the head of household which prevented timely disclosure of required documentation. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

Applicants

When the family lacks the documentation necessary to verify the SSN of a family member under the age of six, In terms of offering a grace period and an extension, if merited, a PHA will implement the same provisions as it implements for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission.

This provision considers applicant families who adopt a child or add a foster child within the 6-month period preceding their admission to the program; such a child may already have been assigned a SSN, but there may be circumstances that make it difficult for the adoptive or foster family to obtain the documentation in a timely fashion.

Disclosure of Participants Newly Assigned SSN

If the participant or any new member of the participant's household has been assigned a new SSN, the participant must disclose the new SSN at the earlier of:

- Next interim re-exam, or
- Next regularly scheduled re-exam, or moving re-exam.

Penalties for Failure to Disclose SSN

In accordance with 24 CFR 5.218, the following penalties apply for

noncompliance with the SSN disclosure and documentation requirements. (See Section 4.17 in this chapter if falsified SSN documentation was provided).

Participants

If a program participant who is required to meet the new requirements fails to meet them within a specified time frame (including any extension), HAFC must terminate the assistance and/or tenancy of the participant's entire household.

However, an exception to required termination of assistance may be granted by HAFC, if in its discretion; it determines that there were unforeseen circumstances beyond the participant's control. In such cases HAFC will allow up to an additional 90 days to disclose the SSN.

If the family is unable to comply with the requirements by the specified deadline, HAFC must terminate the tenancy or assistance, or both of the entire family.

Non-Contending Members without a SSN

The new rules do not apply to persons not here legally who have signed or will sign a non-contending form.

7.10 MEDICAL NEED FOR A LARGER UNIT

Families may request approval of a larger voucher/subsidy for a larger unit to accommodate medical equipment. If the family submits written certification from a reliable, knowledgeable professional, such information will be considered by HAFC in determining whether to grant an exception to the subsidy standards as a reasonable accommodation. However, when the medical equipment that can be stored in the disabled person's bedroom and/or in other living space throughout the unit, the family does not qualify for additional subsidy.

7.11 VERIFICATION OF WAITING LIST PREFERENCES

See Chapter 3 of this Administrative Plan for verification of waiting list preferences.

7.12 VERIFICATION UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

When a victim of domestic violence requests special consideration,(e.g. to transfer to another unit during the first year of tenancy, or to refrain from being terminated from the HCV program due to being evicted from a unit as the result of being a victim of a domestic violence act) , the HAFC will require that the individual certify via a HUD-approved certification form that s/he is a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident or incidents in question are bona fide incidents of the actual or

threatened abuse; as well as to provide any documentation required by the HAFC from one of the following:

- Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking"
- Other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this policy.
- Police or court record - provided to the FH by federal, state, tribal, or local police or court record describing the incident or incidents in question.

CHAPTER 8: VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302, 985 (g) (3) (c)]

8.1 INTRODUCTION

When eligibility has been determined, the HAFC will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, HAFC procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration.

This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for the issuance and term of the voucher. It consists of two sections: briefing and voucher issuance.

SECTION 1: BRIEFING

8.2 MANDATORY HAFC BRIEFING OF THE FAMILY

[24 CFR 982.301]

8.2.1 Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance prior to issuance of a voucher. The briefing will be conducted in groups, individual meetings at the discretion of HAFC, or for Reasonable Accommodation. The briefing will be conducted in groups or individual meetings. Families who attend a group briefing and still have the need for individual assistance may be referred to a Housing Navigator.

Briefings for the HCV program will be conducted in English. For Limited English Proficiency (LEP) applicants, the HAFC will provide translation services as described in Chapter 1, *When Translation Services are Needed*.

The purpose of the briefing is to provide information to ensure the applicant is successful in their housing search and to explain the documents in the applicant's briefing packet so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The documents and information provided in the briefing packets for the voucher program will comply with all HUD requirements. The HAFC also includes other information and/or materials which are not required by HUD.

If the family includes a person with disabilities, the HAFC will ensure compliance with CFR 8.6 to ensure effective communication.

8.2.2 Oral Briefing

[24 CFR 982.301 (a)]

The briefing will include information on the following topics:

- How the HCV program works
- Family and owner responsibilities
- Where the family may lease a unit, including renting a unit inside or outside the HAFC jurisdiction
- For a family that qualifies to lease a unit outside the HAFC's jurisdiction under portability procedures, the information packet must include an explanation of how portability works. The HAFC will not discourage the family from choosing to live anywhere inside or outside HAFC's jurisdiction under portability procedures. (See Chapter 13, *Restrictions on Moves* if the family requests to exercise portability procedures during the initial year of assisted occupancy).
- An explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- Maps that shows various areas with housing opportunities outside areas of poverty or minority concentration both within its jurisdiction and neighboring its jurisdiction. The HAFC has assembled information about the characteristics of those area which may include information about job opportunities, schools, transportation and other services. The HAFC can demonstrate that it uses the maps and area characteristics information when briefing rental voucher holders about the full range of areas where they may look for housing.

8.2.3 Briefing Packet

[24 CFR 982.301(b)]

The family is provided with the following information and materials:

1. The term of the voucher (the amount of search time the family has to locate a unit), along with the HAFC policy for approving a request for additional search time; and the HAFC's policy on any extensions or suspensions of the term.
2. If extensions are allowed, an explanation of how the family can request an extension.
3. How the HAFC determines housing assistance payment for the family including:
 - a) How the HAFC determines the payment standard for the family
 - b) How the HAFC determines Total Tenant Payment (TTP); and

- c) Information on the payment standard and the HAFC utility allowance schedule
- 4. How the HAFC determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard.
- 5. Where the family may lease a unit, along with an explanation of how portability works.
- 6. HUD-required tenancy addendum, which must be included in the lease.
- 7. The HAFC policy on providing information about families to prospective owners.
- 8. The HAFC subsidy standards (how the bedroom size of a voucher is determined by the HAFC) including when the HAFC will consider granting exceptions to the standards; also how voucher size relates to the unit size selected.
- 9. The HUD brochure entitled "A Good Place to Live" on how to select a unit that complies with HQS.
- 10. The HUD brochure on lead-based paint and information about where blood level testing is available.
- 11. Information on federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The HAFC will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws.
- 12. A list of landlords willing to lease to assisted families, as posted on the HAFC website.
- 13. If the family includes a person with disabilities, the HAFC will provide a list of available accessible units known to the HAFC.
- 14. The Family Obligations under the program.
- 15. The grounds on which the HAFC may terminate assistance for a participant family because of family action or failure to act.
- 16. HAFC informal hearing procedures including when the HAFC is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- 17. An HQS checklist.
- 18. Procedures for notifying the HAFC and/or HUD of program abuses such

as side payments, extra charges, violations of tenant rights, and owner failure to repair.

19. The family's rights as a tenant and a program participant.

20. Requirements for reporting changes between certifications.

21. VAWA certification form

Families must sign a statement acknowledging receipt and understanding of the briefing packet.

8.2.4 Scheduling the Briefing

The HAFC will not issue a voucher to a family unless the household representative (Head of Household, Spouse, Co-Head, or other adult member of the household) has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend 2 scheduled briefings, without prior notification and approval of the HAFC, may be denied issuance of a voucher based on failure to attend the briefing.

The HAFC will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

8.3 ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

8.3.1 HAFC-Identified Areas of Poverty and Minority Concentration

(See Maps A and B at the end of this chapter).

The HAFC is committed to taking action to encourage participation by owners of units located outside areas of minority and poverty concentration. These areas have been identified in maps A and B based on 2015 minority and poverty US census data and are described later in this chapter under the section entitled, "Identifying Non-Impacted Areas of Housing Opportunities". This information will be available to voucher holders and program participants searching for housing and is shared at the briefings with our families as an incentive to consider locating in other non-impacted areas of the City.

8.3.2 Identifying Non-Impacted Areas of Housing Opportunities

Non-impacted areas are predominantly located north of Shaw Avenue, both in Fresno and in Clovis, and east of Willow Avenue in Clovis, as shown in Map A. As shown in Map B, non-impacted areas are predominantly located in the eastern portion of Fresno county. These maps are available for families

searching for units and used in briefing families to explain the benefits of locating outside areas of poverty or minority concentration.

The HAFC conducts active outreach to landlords in the community through its monthly participation at the California Apartment Association meetings. In addition, periodic outreach is done to large apartment complexes. Encouraging owners to rent units which are located throughout the city, including non-impacted areas is a part of this outreach.

8.3.3 *Maps and Criteria about Non-Impacted Areas*

The briefing materials contain maps and information about the characteristics of various non-impacted areas in the Fresno jurisdiction to educate families regarding various opportunities in these areas.

8.3.4 *Lists of Owners Which Includes Properties in Non-Impacted Areas*

The HAFC has a list of owners that can assist families in locating units outside impacted areas. This Rental Listing is located online at www.gosection8.com. Copies may be obtained by the family when they attend a briefing.

8.3.5 *Portability/Areas Where the Family Can Live*

The briefing packet contains HAFC policy on allowable moves under portability as well as any restrictions on such a move. It also includes a list of housing authorities with their address and phone numbers in the surrounding area for families who wish to exercise their portability options. For additional information on portability, see Chapter 13.

8.3.6 *Analysis of Need for Exception Payment Standards*

Each year when the SEMAP certification is completed, an analysis is conducted to compare families with children who live in areas of low poverty with those who live in areas which are at or above the overall poverty rate for the principal operating area of the HAFC. Each year over 40% or more of the families have been living in low poverty areas. While Fresno County does have pockets of high poverty, with over 100 census tracts, most program participants have succeeded in locating in non-impacted areas. Therefore, there has not been a need for an exception payment standard to provide expanded housing opportunities for our clients.

SECTION 2: VOUCHER ISSUANCE

8.4 ISSUANCE OF VOUCHERS

[24 CFR 982.302, 982.54(d)(2)]

When funding is available, the HAFC will issue vouchers to applicants whose eligibility has been determined. The issuance of vouchers must be within the dollar limitations set by the Annual Contributions Contract (ACC) budget.

HAFC will obtain new verifications, for applicants, if verification are more than 60 days old at the time of issuing a new voucher.

8.5 TERM OF VOUCHER

[24 CFR 982.303, 982.54(d) (2)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the HAFC and the Family specifying the rights and responsibilities of each party. The voucher certifies that the family is eligible to participate in the HCV program, the unit size of the voucher, and how long the family has to search for a unit. It does not constitute admission to the program which occurs when the lease and contract become effective.

The HAFC will set the voucher term at 60 days. If more search time is needed the family may request an extension, according to the policies in this chapter.

The family must submit a Request for Tenancy Approval within the term listed on the voucher, unless an extension has been granted by the HAFC.

8.5.1 Suspensions

[24 CFR 982.303]

When a Request for Tenancy Approval is received, the HAFC will deduct the number of days required to process the request from the term of the voucher (called tolling or suspension).

8.5.2 Extensions

Any requests for an extension of the voucher time period, must be made prior to the expiration date of the voucher. Extensions may be granted with supervisory approval at the discretion of the HAFC, primarily for, but not exclusive of, any of the following reasons:

- It is necessary as a reasonable accommodation for a person with disabilities,
- Extenuating circumstances such as illness, hospitalization or a family emergency, which affected the family's ability to find a unit within the voucher time period;
- Family can show evidence, through a completed search record, that they were unable to locate a unit;
- Family has submitted Request(s) for Tenancy Approval that the HAFC has disapproved (i.e., HAFC unable to negotiate rent(s) with owner or unit(s) do not meet HQS);

- Family size or other special requirements made finding a unit difficult.

The HAFC will request proof to substantiate the need for an extension.

The family may request one or more extensions.

8.5.3 Assistance to Voucher Holders

Families who require additional assistance during their search may call the HAFC Office to request assistance. Families may also access listings of available units by contacting our office or visiting our agency website at www.hafresno.org.

8.5.4 Expirations

If the voucher has expired, or expires after an extension, the applicant will be denied assistance and a participant family's assistance will end. The family will not be entitled to a review or a hearing.

8.6 VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS

[24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, the HAFC will require additional information to determine who will be issued the voucher. If the family cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the HAFC shall consider the following factors to determine which of the families will continue to be assisted:

1. Whether the assistance should remain with family members remaining in the original assisted unit.
2. The interest of minor children or of ill, elderly or disabled family members.
3. Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of the household.
4. Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the HAFC will terminate assistance on the basis of failure to provide information necessary for a recertification.

8.7 REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER

To be considered the remaining member of the tenant family, the person must have been previously approved by the HAFC to be living in the unit. A live-in

attendant, by definition, is not a member of the family and will not be considered a remaining member of the tenant family.

In order for a minor child to continue to receive assistance as a remaining family member:

1. The court has to have awarded emancipated minor status to the minor; or
2. The HAFC has to have verified that the local social services agency and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.
3. The adult brought into the assisted unit to care for the children must be approved by the HAFC, and pass criminal background screening requirements.

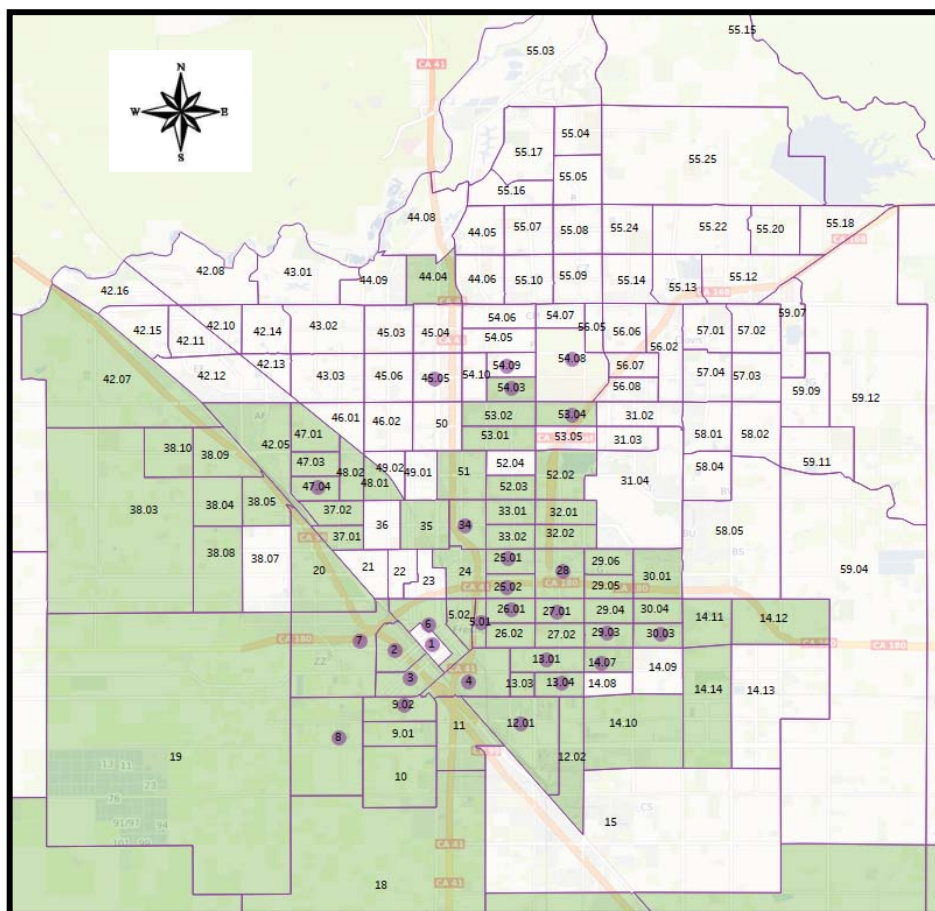
A reduction in family size may require a reduction in the voucher size.

8.8 VOUCHER ISSUANCE OF PRIORITY

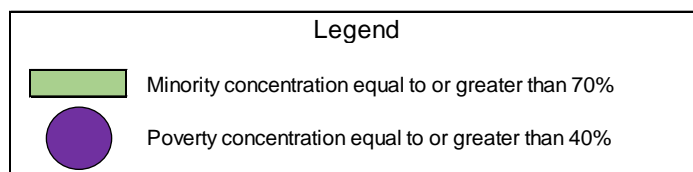
HAFC's established order of priority for the Housing Choice Voucher program, as set forth in HAFC's Annual Plan, are prioritized in accordance with the following HCV Priority Codes (1= highest ranking ; 7 = lowest ranking).

Order of Priority	
Priority	Program Type & Requirements
1	VAWA Protection <ul style="list-style-type: none"> • Current victims of domestic violence, dating violence, sexual assault, or stalking.
2	FUP-Youth- <ul style="list-style-type: none"> • Youths 18-21 years old (has not reached 22nd birthday) who left foster care at age 16 or older and lack adequate housing. • Youth Displaced by domestic violence and lack adequate housing.
3	FUP- Families <ul style="list-style-type: none"> • Must be enrolled in FSS program and signed a contract of participation for up to of 5 years. • Must participate simultaneously in both the FSS and FUP-Youth
4	PBV <ul style="list-style-type: none"> • PBV Participant must have fulfilled the project-based voucher lease for a minimum of 12 months. • No outstanding debts and in good standing.
5	PBRA <ul style="list-style-type: none"> • Must have fulfilled the PBRA lease for a minimum of 24 months. • Given proper notice, no debts owed, and in good standing.
6	VASH <ul style="list-style-type: none"> • Will be considered when program reaches 98% utilization or above.
7	All other HCV applicants

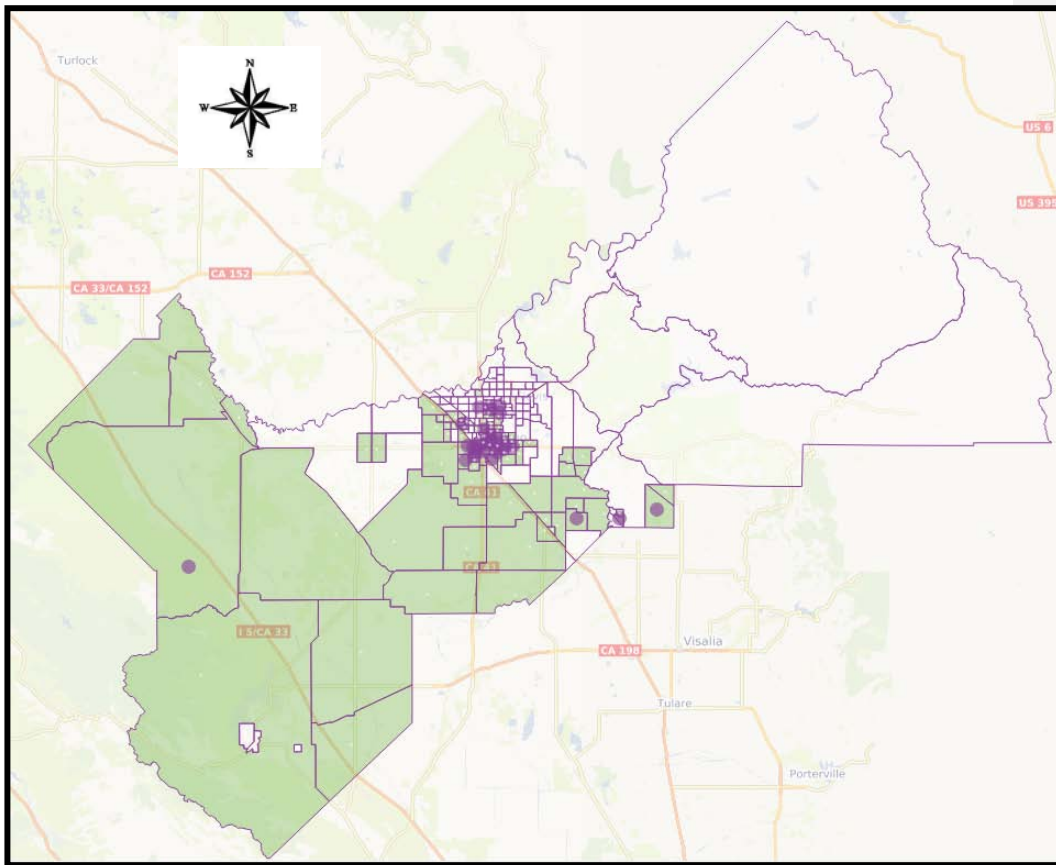
Map A: Areas of Minority and Poverty Concentration, Fresno Metropolitan Area



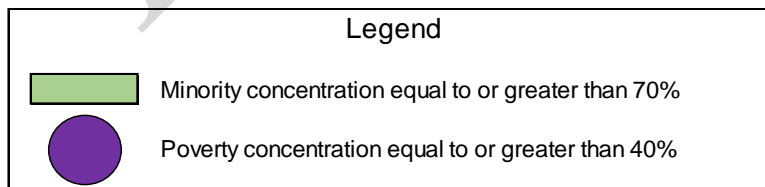
Map A: U.S. Census Bureau (2015). Minority and Poverty rates, 2010-2015 American Community Survey 5-year estimates.



Map B: Areas of Minority and Poverty Concentration, Fresno County



Map B: U.S. Census Bureau (2015). Minority and Poverty rates, 2010-2015 American Community Survey 5-year estimates.



CHAPTER 9: RFTA AND CONTRACT EXECUTION

9.1 INTRODUCTION

[24 CFR 982.302(b)]

Once families are issued a voucher, they must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments (HAP) Contract with the HAFC. This chapter covers the HAFC's policies which pertain to the processing of Requests for Tenancy Approval (RFTA); the types of eligible housing which may be assisted; lease requirements; reasons for owner disapproval, and the HAP contract execution process.

Information regarding the initial inspection is covered in Chapter 10.

9.2 REQUEST FOR TENANCY APPROVAL (RFTA)

[24 CFR 982.305]

A Request for Tenancy Approval (RFTA) is the written request from the voucher holder and owner, submitted to the HAFC for consideration and approval of a new tenancy.

9.2.1 *Requirements for RFTA Approval*

[24CFR 982.302(c), 982.305]

The family must submit the RFTA and a copy of the proposed lease during the term of the voucher. The RFTA must be signed by both the owner and voucher holder. The HAFC will not permit the family to submit more than one RFTA at a time.

The HAFC will consider an RFTA approvable if all of the following criteria are met:

- Non-permitted, converted, free-standing or attached garages or other structures not intended to be living areas (see chapter 10).
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan); (see Chapter 10 for HQS information).
- The rent is reasonable and approvable [24 CFR 982.507]; (see this Chapter and Chapter 11).
- The rent burden test must be met to ensure the family does not pay more than 40% of their adjusted monthly income towards rent and utilities (24

CFR 982.508).

- The proposed lease complies with HUD and HAFC requirements.
- The owner is approvable, and there are no conflicts of interest.
- All applicable lead-based paint disclosure requirements have been met; (see Chapter 10, *Lead Base Paint & HQS*.
- The owner has not been debarred by HUD; or disapproved by HAFC in the last three years.
- The unit is not subject the restriction on renting from relatives rule; see Section 9.4 of this chapter.

The family must submit an approvable RFTA before the end of the voucher period or assistance will terminate. For information regarding term of voucher as it relates to search time; see Chapter 8, Term of Voucher [24 CFR 982.303, 982.54(d)(2)]

9.3 TYPES OF HOUSING

[24 CFR 982.352, 982.54(d) (16)]

The family may receive tenant-based assistance to lease a unit located anywhere within the initial housing authority's jurisdiction or outside the initial housing authority's jurisdiction under the portability requirement, if eligible.

The family may select the dwelling unit they have been residing in prior to participation in the program if the unit is approvable and all other criteria is met. This is called leasing in-place.

9.3.1 Eligible Housing Types

Eligible housing types include the following:

- Single-family dwellings, including condos and townhouses.
- Manufactured homes where the family leases the mobile home and the pad [24 CFR 982.620(a) (2)].
- Manufactured homes where the family owns the mobile home and leases the pad [24 CFR 982.620(a) (3)].
- Multi-family dwellings (apartment buildings).
- Units owned but not subsidized by the HAFC (HUD-prescribed

requirement); see [24 CFR 982.352(b)].

However, there are some restrictions to the above:

- If the unit has other housing subsidy attached to it as described in [24 CFR 982.352(c)], a family may not receive the benefit of tenant-based assistance in such unit.
- The HAFC may not permit a voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental assistance.

9.3.2 Special Housing Types

[24 CFR 982.601-624]

The HAFC will permit the following as eligible housing types if needed as a reasonable accommodation so that the program is readily accessible to and useable by persons with disabilities in accordance with 24 CFR Part 8:

- Shared housing
- Single room occupancy
- Congregate housing
- Group housing
- Cooperative housing

9.3.3 Ineligible Housing Types

[24 CFR 982.352(a)]

The HAFC will not approve:

- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes and shared housing as described above; or for the Homeownership Option described in Chapter 21 of this administrative plan.
- Nursing homes or other institutions that provide care.
- School dormitories and institutional housing.
- Structures that have not been properly converted. Owners will be required to provide finalized permits for all conversion work when the integrity and/or soundness of a structure are in question.

- Non-permitted, converted free-standing or attached garages or other structures not intended to be living areas.
- Any other types of housing prohibited by HUD.

The owner of the assisted unit may never be a live-in aide for the family.

9.4 RESTRICTION ON RENTING FROM RELATIVES

[24 CFR 982.306(d)]

A family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member, unless HAFC determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

9.5 AFFORDABILITY

[24 CFR 982.507, 982.308]

An affordability test will be completed by HAFC to determine the family's ability to qualify for a unit indicated on RFTA. This will ensure that the family does not pay more than 40% of their monthly adjusted income for the family's Total Tenant Payment (TTP).

Criteria used in calculating affordability are as follows:

- 30% of voucher holder's monthly adjusted income, or minimum rent (if applicable)
- Voucher size
- Unit size
- Type of unit
- Utility Allowance- Utilities and appliances and who supplies them
- Payment standard (lesser of voucher size or unit size)

The pro-rated percentage will also be considered in calculation of affordability for families with ineligible non-citizens (see 4.12.1).

9.6 DISAPPROVAL OF RFTA

[24 CFR 982.302(d)]

If the HAFC determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. The HAFC will do one of the following:

- Instruct the owner and family of the steps that are necessary to approve

the request, if applicable.

- Disapprove the unit and furnish another RFTA form so that the family can continue to search for eligible housing, if time is available on their voucher.

The HAFC will suspend the term of the voucher while the RFTA is being processed. Therefore, the length of time allotted to a family for the purpose of locating another unit will be based on the number of days left on the term of the voucher at the time the RFTA was received by HAFC [24 CFR 982.303(b)].

The family must submit an approvable RFTA before the end of the voucher period or assistance will terminate. For information regarding term of voucher as it relates to search time; see Chapter 8, *Term of Voucher* [24 CFR 982.303, 982.54(d)(2)]

9.7 LEASE AGREEMENTS

[24 CFR 982.308, 982.309]

The HAFC will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA. If there are any discrepancies the Tenancy Addendum will supersede. The HUD prescribed tenancy addendum must be attached and executed.

At minimum, the lease must specify the following information:

- The names of the owner and the tenant;
- The address of unit rented;
The term of the lease including initial term and any provisions for renewal;
- The amount of the monthly rent; and
- A specification of which utilities and appliances will be supplied by the owner, and which are to be supplied by the family.

An addendum may be required if any of the above information is not included in the lease.

9.7.1 Separate Agreements

[24 CFR 982.510(c)]

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised at initial inspection of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances

(other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the HAFC.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. If there is to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

The HAFC is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed. All agreements for special items or services must be attached to the lease approved by the HAFC. If agreements are entered into at a later date, they must be approved by the HAFC and attached to the Lease.

9.8 LEASE PURCHASE AGREEMENTS

[24 CFR 982.317(a)(b)]

A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. As long as the family is receiving rental assistance, all tenant-based program requirements apply.

Any homeownership premium included in the rent to the owner must be absorbed by the family, such as:

- Increment of value attributable to the value of the lease-purchase right; and
- Agreement such as an extra monthly payment to accumulate a down payment or reduce the purchase price.

Any homeownership premium paid by the family to the owner must also be excluded when the HAFC determines rent reasonableness.

9.9 TERM OF ASSISTED TENANCY

[24 CFR 982.309]

The initial lease term must be for at least one year under HUD regulations.

During the initial lease term, the owner may not raise the contract rent, except when permitted by special rules for subsidized units as described in [24 CFR 982.521].

DRAFT

9.10 INFORMATION TO OWNERS

[24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the HAFC will furnish prospective owners upon receipt of written request, copy of application to rent and signed consent to release information from client, with the following information:

- The family's current address as shown in the HAFC's records; and
- If known to the HAFC, the name and address of the landlord at the family's current and prior address.

The HAFC will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The HAFC will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

A statement of the HAFC's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The HAFC will provide this information orally to the prospective landlord.

The HAFC's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

9.11 OWNER DISAPPROVAL

[24 CFR 982.306]

For purposes of this section, "owner" includes a principal or other interested party.

Mandatory Disapprovals (24 CFR 982.306(b))

The HAFC will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the HAFC that the owner has been disbarred, suspended, or subject to a limited denial of participation under [24 CFR part 24].
- HUD has informed the HAFC that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

- HUD has informed the HAFC that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- The owner has a conflict of interest as described in HUD regulation [24 CFR 982.161(a)], and would therefore be unable to enter into a contract with the HAFC.

HAFC may periodically check the following website address to determine if an owner has been debarred from participation under 24 CFR Part 2 at <https://www.epls.gov/epls/search.doc>.

Discretionary Disapprovals (24 CFR 982.306C).

- The owner has violated obligations under a Housing Assistance Payments Contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity.
- The owner has fraudulently rented to a relative in violation of 24 CFR 982.306(d); see Section 9.4 of this chapter.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing programs.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
 - a. Threatens the right to peaceful enjoyment of the premises by other residents;
 - b. Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
 - c. Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
 - d. Is drug-related criminal activity or violent criminal activity; or

- The owner, owner's representative, and/or property management company has a history or practice of renting units that fail to meet State or local housing codes; this would include all relevant local code, including, but is not limited to, Site or Neighborhood Conditions as they pertain to:
 - a. Landscape maintenance – Trees, shrubs and landscaping must be adequately maintained (County Code – Fresno Zoning Ordinance 850.B.6.3
 - b. Hazardous trees and weeds – Dead, decayed, diseased or hazardous trees and overgrown weeds or grass (County Code – Fresno Zoning Ordinance 850.B.6.2.a
 - c. Parking – Parking on the front yard or unapproved surface is prohibited (County Code – Fresno Zoning Ordinance 850.B.5.1.2
 - d. Prohibited Vehicles – Front yard storage of boats, personal watercraft and trailers is prohibited (County Code – Fresno Zoning Code title 11, chapter 11.45)
 - e. Inoperable Vehicles – Abandoned/inoperable vehicles on the public right of way is prohibited
- The owner has not paid State or local real estate taxes, fines or assessments.

For purposes of this section on owner disapproval, "owner" refers to the owner of a property as well as one or more principals of owner or other interested parties in the property or owner, including but not limited to the following: a property management company providing property management services at the property; a member or partner of the entity that is the owner of the property; and/or an owner's representative.

If an owner, owner's representative, and/or property management company has committed fraud or abuse or is guilty of frequent or serious contract violations, the Housing Authority may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense, and may terminate some or all existing HAP contracts for assisted families with the owner, owner's representative, and/or property management company if the Housing Authority determines it has violated the HAP contract for those units.

In considering whether to disapprove owners, owner representatives, and/or property management companies for any of the discretionary reasons listed above, the Housing Authority will consider all mitigating factors. Such factors may include, but are not limited to, the seriousness of the violations in relation to program requirements, health and safety of participating families, documentation from enforcement agencies, and record of compliance/number of violations of said parties, among others. Upon consideration of such circumstances, the Housing Authority may, on a case-by-case basis, choose to disapprove an owner, owner's representative, property management company, and/or identified

property. If disapproval is warranted, the owner will be notified in writing by the Executive Director or designee of the reason(s) for the disapproval.

9.12 CONTRACT EXECUTION PROCESS

[24 CFR 982.305(c)]

The HAFc prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and the HAFc will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HAFc will retain a copy of all signed documents.

The HAFc makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the Contract is executed.

Any member of the Assisted Housing/Housing Choice Department's management team is authorized to execute a contract on behalf of the department.

Owners must provide the following information for contract execution:

- Owners must provide a current mailing address. If property is owned by a relative (where the HAFc approved the unit as a reasonable accommodation) the owner must provide the current address of their residence (not a Post Office box) for comparison to the subsidized unit's address.
- Owners must provide an Employer Identification Number or Social Security Number.
- Owners must submit a completed and accurate W-9 form.
- Owners must submit a completed Owner Authorization form.
- Owners must provide their financial institution account information for the mandatory Electronic Funds Transfer (EFT) processing of HAP payments.
- Owners must provide a copy of management agreement between owner and person and/or company managing assisted property on owner's behalf, if applicable.

9.12.1 Change in Total Tenant Payments (TTP) Prior to HAP Effective Date

When the family reports changes in factors that will affect the Total Tenant Payment (TTP) prior to the effective date of the HAP Contract at admission, the

information will be recorded. An interim adjustment to the TTP will be deferred until after the family leases up in the unit, unless to defer the interim adjustment would result in a hardship for the family. The HAFC will review the need for an interim on a case-by-case basis.

9.13 CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract.

The HAFC will process a change of ownership only upon the written request of the new owner and only if accompanied by the following:

- A copy of the final closing escrow statement, recorded grant deed or other legal document showing the transfer of title;
- W-9 indicating the Employee Identification Number or Social Security Number of the new owner;
- W-9 substitute
- Owner Authorization form
- Owners current address and phone number
- Financial institution account information for EFT payment processing.
- Management agreement (if needed)

9.14 CHANGE IN MANAGEMENT

The HAFC must receive a written request by the owner in order to change the HAP payee and/or the address to which payment is to be sent along with copy of management agreement between owner and managing agent/company and/or new account information if applicable.

CHAPTER 10: HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

10.1 INTRODUCTION

Chapter 10 describes the HAFC's procedures for conducting different types of inspections, and the standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with Housing Quality Standards (HQS) requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HAFC requirements.

10.2 GUIDELINES/TYPES OF INSPECTIONS

[24 CFR 982.401(a), 982.405]

Housing Quality Standards (HQS) is the minimum quality standards set forth by HUD in 24 CFR 982.401 for tenant based programs. The standards are set in place to ensure that the assisted housing is decent, safe and sanitary. HQS standards apply to the building and premises, as well as the unit.

There are four types of inspections the HAFC will perform:

- Initial/Move-in: A unit must pass this HQS inspection before the Housing Authority will enter into a HAP Contract with the owner.
- Annual: The HAFC may conduct HQS inspections at least biennially to ensure the unit continues to meet minimum HQS requirements; however, HAFC is electing to conduct annual HQS inspections until an appropriate methodology can be fairly applied to units without compromising the quality of housing.
- Special/Complaint: This inspection is usually conducted at the request of the owner, family or HAFC-approved entity and may also be initiated by the HAFC. This inspection may be conducted without notice to verify program compliance.
- Quality Control: The HAFC is required to perform quality control HQS inspections.

HAFC-Owned Units: The HAFC must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HAFC-owner unit. A HAFC-owned unit is defined as a unit that is owned by the housing authority that administers the assistance under the Consolidated Annual Contributions Contract (ACC) (including a unit owned by an entity substantially controlled by HAFC). The independent agency must communicate the results of each inspection to the family and HAFC. The independent agency must be approved by HUD, and may be the unit of general local government for HAFC's jurisdiction.

10.2.1 Initial - Move-In HQS Inspection

[24 CFR 982.401(a)]

The owner or owner's representative must attend the initial inspection. The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Administrative Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Confirm the information used for determination of rent-reasonableness.

If the unit fails the initial HQS inspection, the family and owner will be advised to notify the HAFC once repairs are completed. The owner will be given up to 30 calendar days to correct the items noted as "fail".

The owner will be allowed up to one re-inspection for repair work to be completed. Additional time allowed for repairs will depend at the inspector's discretion, depending on the amount and complexity of work to be done. Subsequent re-inspections will be scheduled at the HAFC's discretion.

If the time period given by the HAFC to correct the repairs has elapsed, or the unit fails the re-inspections, the unit will be disapproved and the family will be issued another RFTA to search for a unit which meets HQS.

10.2.2 Annual HQS Inspections

[24 CFR 982.405(a)]

In accordance with HUD requirements the HA may conduct a Housing Quality Standards inspection for each unit on the program at least once every 24 months. However, at its discretion, HAFC will conduct HQS inspections at least every 12 months until an appropriate methodology can be fairly applied to units without compromising the quality of housing. The family must allow the HAFC to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551 (d)].

Inspection: The family and owner are notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they may authorize a representative who is 18 years of age or older to be present to allow the inspector access to unit to conduct the inspection. The family may provide written permission for the property manager or owner to allow the inspector entry into the unit.

If the family (or an adult) is not present to allow access, the inspection is considered to be a participant-caused "no entry" and the participant will be in

non-compliance for violating a Family Obligation. The family will be sent a non-compliance letter giving the family one final inspection appointment.

Unit Fails the First Inspection Due to Owner-Caused Failures

If the unit fails inspection, correction of the fail items will be verified by one of two methods: HQS Self Repair Certification process or by re-inspection by HAFC.

HQS Self Repair Certification

The HAFC inspector will determine during the failed inspection if the unit/owner is eligible to submit an HQS Self Repair Certification. If eligible, this will be conveyed in the notice of failed inspection along with the list of items requiring repair. The owner will have 20 calendar days from the date of the failed inspection to complete and submit the form, and return to HAFC with appropriate documentation, i.e., receipts, pictures, etc, that the items have been corrected. It is the owner's responsibility to obtain the participant's signature on the HQS Self Repair Certification Form prior to submitting to HAFC.

Failure to return the Certification by the due date will result in an automatic fail. The unit will be placed in abatement the 1st of the following month with the contract set to cancel at the end of that month if the HQS Self Repair Certification has not been received during the abatement period.

Re-inspection: The family and owner are mailed a notice of the inspection appointment. If the family or owner [who can provide a 24-hour notice of intent to enter unit] does not allow access at the time of re-inspection, the unit will be considered a fail as the inspector was unable to verify repairs were completed.

The family is also notified that it is a Family Obligation to allow the HAFC to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance," they will be advised of their responsibility to correct.

Time Standards for Repairs

1. Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of the inspection.
2. For non-emergency items, repairs must be completed within 30 days.
3. For major repairs, the supervisor may approve an extension.

The extension will be made for a period of time not to exceed 60 calendar days. At the end of that time, at the HAFC's discretion, if the work is not completed, the HAFC will begin the abatement for owners or termination of assistance for family breach of HQS.

The HAFC supervisor, assistant manager or manager will approve extensions for non-emergency repairs. The manager will approve all extensions for emergency fails.

10.2.3 Special/Complaint Inspections

[24 CFR 982.405(c)]

If at any time the family or owner notifies the HAFC that the unit does not meet HQS, the HAFC may conduct an inspection. The HAFC may attempt to verify that the family has submitted a maintenance request to the property manager or owner prior to requesting a complaint inspection.

The HAFC may also conduct a special inspection based on information from third parties such as neighbors or public officials or when units are identified as needing a special inspection by HQS Inspectors during neighborhood walks or in the course of performing other scheduled inspections.

The HAFC will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs. If the annual inspection is due, the special inspection may be categorized as an annual inspection and all annual procedures will be followed.

FH may conduct inspections more often for landlords whose properties require frequent complaint inspections and/or are at the risk of possible disapproval from the program according to FH's Administrative Plan, Section 9.11.

Receipt of Request for Complaint/Special Inspections

All complaint inspections must be reviewed within 24 hours of receipt. The Supervisor or HQS Enforcement Specialist will determine if the complaint or request requires an emergency inspection. Emergency inspections must occur within 24 hours of the request.

10.2.4 Quality Control Inspections

[24 CFR 982.405(b) and 985.3(e)]

The purpose of Quality Control inspections is to ensure that each HQS Inspector is conducting accurate and complete inspections, and to ensure that there is consistency among HQS Inspectors in the enforcement of the Housing Quality Standards.

10.3 ADDITIONS TO HQS

[24 CFR 982.401(a)]

The HAFC adheres to the acceptability criteria in the program regulations and HUD Inspection Booklet with the additions described below.

Security:

If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Bedrooms:

Minimum bedroom ceiling height is 7 feet or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Note: If the unit meets the HQS requirement of being a bedroom and the owner is disputing the bedroom size of the unit:

- 1) It will be the owner's responsibility to provide adequate documentation to support a claim as to the larger bedroom size as related to the rent reasonableness determination; and
- 2) If the owner cannot provide the documentation requested by the HAFC, the size of the unit will remain at the lower unit size.

Thermal Environment:

Heating system in a HCV unit must be capable of maintaining an interior temperature of 70 Fahrenheit (Fresno Building Code, Section 11319).

Interior Air Quality:

In conformance with California law, all units must have a working carbon monoxide detector installed.

10.4 HQS DEFICIENCIES

10.4.1 *Emergency Fail Deficiencies*

[24 CFR 982. 404(a) and (b)]

Only life-threatening items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of inspection.

The following deficiencies are considered life threatening emergency fails, and will cause a unit to be deemed uninhabitable if not corrected within 24 hours:

- Gas leaks
- Major plumbing problems
- Utilities not in service
- No running water
- Absence of a functioning toilet in a one bathroom unit
- Unstable roof/structure – such as collapsed ceiling, walls or floors
- Electrical problem which could result in shock or fire (i.e., exposed stripped wires)

When life-threatening deficiencies are identified, HAFC will immediately notify both parties by telephone, facsimile, or email. In the event the HAFC is not physically able to visually confirm the repair has been corrected in 24-hours, the owner/resident can fax verification of repairs or restoration of services to the HAFC. The HAFC will make every effort to confirm with the client by phone that the emergency repairs have been completed. The HAFC also will follow up to confirm the repair has been corrected by conducting a re-inspection by the next HAFC business day.

In those cases where there is leaking gas, potential of fire, or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the HAFC.

If the emergency repair item(s) are not corrected within 24 hours and the owner is responsible, the Housing Assistance Payment will be abated and the HAP Contract will be terminated.

If the emergency repair item(s) are not corrected within 24 hours and it is an HQS breach which is a family obligation, the HAFC will terminate assistance to the family, after providing an opportunity for an informal hearing. The owner's rent will not be abated for items which are the family's responsibility. The HAP Contract will terminate when assistance is terminated."

10.4.2 Non-Emergency Fail Deficiencies

Non-emergency deficiencies that cause a unit to fail the inspection must be corrected. The family and owner will be notified of the failed items in writing.

If the necessary repairs have been completed prior to the next scheduled inspection, the family or owner may request an earlier inspection date. Requests for earlier repair dates will be reviewed and accommodated on a case-by-case basis.

10.4.3 Non-Emergency Fail Deficiencies Not Requiring Re-inspection

In addition to the deficiencies listed in this section, HAFC will not require a re-inspection for any other minor, non-life-threatening deficiency (e.g., interior loose door knobs, re-grouting bathtub/sink areas) if cleared by proper HQS Self Repair Certification.

The following deficiencies will not require a re-inspection if cleared by proper owner certification.

- Inoperable stove element
- Missing or broken refrigerator handle
- Inoperable bathroom exhaust fan
- Exterior Lighting
- Damaged (not missing) outlet covers
- Inoperable secondary smoke detectors
- Minor faucet and/or plumbing leaks
- Closet door off track
- Striker plate on door is missing or damaged

The deficiencies must be cleared by a HQS Repair Certification signed by owner and participant. If the certification is not approved by a supervisor or HQS Enforcement Specialist, a re-inspection must be performed.

Appropriate third party documentation must be supplied where appropriate, including but not limited to, the following: gas/utility receipt or invoice, repair invoices, pest control invoices, and photos.

10.5 CONSEQUENCES IF FAMILY IS RESPONSIBLE

[24 CFR 982.404(b)]

If non-emergency violations of HQS are determined to be the responsibility of the family, the HAFC will require the family make any repair(s) within 30 calendar days. If the repair(s) or correction(s) are not made in this time period, the HAFC will initiate the termination of assistance process to offer the family an opportunity for an informal hearing. Extensions in these cases must be approved by supervisors. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAFC will initiate the termination of assistance process to offer the family an opportunity for an informal hearing.

10.6 CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)

[24 CFR 982. 404, 982.453]

If owner-caused deficiencies are not corrected in the time period required by the Housing Authority, housing assistance payments will be abated and the contract may be terminated.

10.6.1 Abatement

If the re-inspection fails, the re-inspection appointment letter will include the effective date of the abatement if all owner-responsibility repairs are not completed by the date of the re-inspection. Abatement will begin the first of the following month.

The HAFC will inspect abated units within 30 calendar days of the owner's notification that the work has been completed. If the owner makes repairs prior to the first of the following month the abatement will be cancelled. If repairs are completed during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the HAFC's portion of rent that is abated.

If a request to re-inspect the property is received and the second re-inspection reveals that previous cited deficiencies were not repaired, the HAFC may require the landlord to pay a re-inspection fee of \$24. An annual inflation factor will be applied and updated each year. Re-inspection fees will not be applied to deficiencies caused by the participant family, initial inspections, regularly scheduled inspections, an instance in which the inspector was unable to gain access to the unit, or new deficiencies identified during a re-inspection. A landlord who is assessed a fee may not pass the fee on to a family. Re-inspection fees will not be applied to PHA-owned properties.

10.6.2 Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect. The tenant will be issued a voucher to search for another unit.

If repairs are completed before the effective termination date, the termination may be rescinded by the HAFC if the tenant chooses to remain in the unit. Only two Housing Quality Standards inspections will be conducted after the termination notice is issued.

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10.7 DETERMINATION OF RESPONSIBILITY

[24 CFR 982.404]

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service.
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

The owner is responsible for all HQS violations other than those bulleted in the paragraph directly above.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The HAFC may terminate the family's assistance on that basis.

The owner, owner's representative, and/or property management company must follow state and local housing codes; this includes all relevant code, including, but not limited to Site or Neighborhood Conditions (refer to section 9.11).

The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to the HAFC within 10 business days of the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs, supplying a copy to HAFC, and the family's file will be noted.

10.7.1 Normal Wear and Tear

"Normal wear and tear" is defined as items which could be charged against the tenant's security deposit under state law or court practice.

10.8 LEAD-BASED PAINT AND HQS

[24 CFR Part 35]

In order to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the HUD regulations of September 15, 1999 the HAFC will adopt the following policies. For all pre1978 dwelling units with a child under six years of age, during the initial and annual inspections, the HAFC will conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint. If

deteriorated paint is found, the owner will be required to perform paint stabilization. If the area to be stabilized is above “de minimis levels”, the owner will be required to use “safe work practices” as defined in 24 CFR Part 35.1350. For common terms used regarding lead hazard reduction see the end of this section.

10.8.1 Owner Responsibilities

The owner must notify the HAFC and the family if aware of any known lead-based paint or lead-based paint hazards on the premises. This must occur prior to execution of the HAP contract.

The owner must perform paint stabilization when required by the HAFC as a result of an HQS inspection.

Where a pre-1978 dwelling unit is occupied by a child of less than six years of age with an environmental intervention blood lead level (EIBLL), the owner will:

- be required to allow the HAFC to conduct a risk assessment of the dwelling unit;
- be advised of the risk assessment inspection and given the opportunity to be present;
- upon receipt of a written report of the results of the above inspection, the owner must post notice to the tenant;
- if hazard conditions exist, the owner must comply with the scope of the work within 30 days;
- once interim controls or abatement (corrective actions to reduce or eliminate LBP hazards) have been completed, the owner must contract with a Certified Lead Inspector (CLI) for a clearance examination;
- once cleared by the CLI, a copy of the Clearance Report must be provided by the owner to the HAFC.

10.8.2 HAFC Responsibilities

The HAFC staff will conduct a visual assessment at initial and periodic inspections. If during the inspection the family informs the HAFC staff person there is a child under 6 years of age with an EIBLL, staff is to give a written report to a Housing Choice Voucher manager.

The HAFC will attempt to obtain from the health department names and/or addresses of children with EIBLL's. Such information will be matched with HAFC address records of assisted families.

The HAFC will report to the health department addresses of assisted units, unless the health department states it does not want such a report.

Lead-based paint inspection reports, with owner certifications, will be kept for a minimum of three years; indefinitely if chewable surfaces require testing.

As part of the briefing of applicant/participant families, the HAFC will provide the household with a copy of the HUD brochure, "Protect Your Family from Lead in Your Home."

Where a pre-1978 dwelling unit is occupied by a child of less than six years of age with an environmental intervention blood lead level (EIBLL), and the HAFC has received EIBLL notification by the health department or other medical health care provider, the HAFC will:

- schedule a risk assessment within 15 days and give the owner an opportunity to be present;
- place the housing assistance payment on hold, if the written report reveals items which must be corrected;
- notify the owner in writing of the hold, and of the Lead Based Paint Hazard Reduction Procedures [letter], giving 30 days to correct all items;
- upon receipt of a clearance form per 24 CFR 35.1340, will release the housing assistance payment;
- notify the owner and family in writing of termination of the contract and housing assistance payments if the required clearance form is not provided by the end of the 30-day correction period;
- if the owner does not obtain a clearance, or if the family decides not to stay in the unit, the HAFC will process the family's request to transfer to another unit, if the family serves a proper notice of intent to vacate and meets the other requirements to transfer as described in Chapter 13 of this Plan.

The unit will be taken off the program and the property tracked so that it will not be allowed back on the program until such time as a clearance is supplied.

10.8.3 Common Definitions Regarding Lead-Based Paint

Below are some of the key terms used in this section. Other definitions are located in 24 CFR Part 35.7, 35.110.

Abatement means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. Abatement includes:

(1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and

(2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

Certified [Inspector] means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), or by the EPA, in accordance with 40 CFR part 745, subparts L or Q.

Clearance Examination means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in 24 CFR Part 35, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found in 24 CFR Part 35.1320.

De Minimis Levels (aka De Minimis Rule) means:

- 20 sq ft on exterior surfaces,
- 2 sq ft in any one interior room, or
- 10% of total surface area of an interior or exterior type component with a smaller surface area (e.g., window sills)

Deteriorated Paint means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

Environmental Intervention Blood Lead Level (EIBLL) means a confirmed concentration of lead in whole blood equal to or greater than 5 ug/dl (micrograms of lead per deciliter, see 24 CFR Part 35).

Hazard Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

Interim Controls means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint

maintenance activities, and the establishment and operation of management and resident education programs.

Paint Stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying new protective coating or paint.

Risk Assessment means: (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Visual Assessment means looking for, as applicable: (1) Deteriorated paint; (2) Visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or (3) The completion or failure of a hazard reduction measure.

CHAPTER 11: PAYMENT STANDARDS AND RENT REASONABLENESS, AND OWNER RENTS

[24 CFR 982. 503, 982. 507, 982. 505]

11.1 INTRODUCTION

It is the HAFC's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. The HAFC will not approve the lease or execute a payments contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. The HAFC will determine rent reasonableness at initial lease-up, before any increases in rent to owner and at other times as described in this section.

This chapter explains the HAFC's procedures for determination of payment standards, rent-reasonableness, payments to owners, and rent adjustments.

11.2 SETTING THE PAYMENT STANDARDS FOR THE VOUCHER PROGRAM

[24 CFR 982. 503(b)(1)]

HUD regulations allow the HAFC to set payment standards at a level that is between 90 percent and 110 percent of the Fair Market Rent (FMR) for its jurisdiction. The HAFC must set the payment standard at a level that is high enough to ensure that families are able to afford quality housing, ensure the payment standard does not inflate the rental market rates while balancing the need to provide assistance to as many families as possible.

The HAFC sets its payment standards between 90% and 110% of the Fair Market Rents.

11.2.1 *Manufactured Home Space Payment Standard*

The Payment Standard for a manufactured home space is to 40 % of the published FMR for a 2-bedroom unit.

11.2.2 *Exception Payment Standard – PIH Notice 2010-11, PIH Notice 2013-03*

HAFC may approve an exception payment standard up to 120% of the Fair Market Rent to accommodate a disability.

HAFC must maintain documentation that shows:

- a rent reasonableness analysis was conducted in accordance with the HCV program regulations at 24 CFR 982.507;
- the family requested lease approval for the unit and requested an exception payment standard as a reasonable accommodation; and

- the unit has features that meet the needs of a family member with disabilities. For example, a unit may be suitable because of its physical features or for other reasons, such as having the requisite number of bedrooms, location on an accessible transit route, or proximity to accessible employment, education, services, or recreation.

Refer to PIH Notice 2010-11 for details on the process required to submit a request to HUD for an exception above 120% of the FMR.

11.3 MAXIMUM INITIAL RENT BURDEN

Any new admission or any family who moves may not pay more than 40% of adjusted income toward the initial rent and utilities for the unit if the gross rent for the unit exceeds the applicable payment standard for the family.

EXAMPLE: Maximum Initial Rent Burden

Tenant Rent Exceeds 40% of Adjusted Monthly Income

Family's monthly adjusted income	\$600
TTP @ 30%	\$180
40% adjusted income	\$240
Payment Standard	\$500
Minus TTP	- 180
Maximum subsidy	\$320
Unit gross rent (above payment standard)	\$575
Minus maximum subsidy	-320
Family share	\$255

HAFC cannot approve the unit because the family would be required to pay more than 40% of its monthly adjusted income.

11.4 ADJUSTMENTS TO PAYMENT STANDARD

The HAFC will review Payment Standards at least annually. A quarterly review will be done if any of the following occurs:

- 25% or more Voucher holders cannot locate housing within the term of the

Voucher

- 40% or more of families of a particular unit size pay more than 30% of adjusted income as their family share
- based on a review of its rent reasonableness data base and vacancy rate data, there is an insufficient supply of vacant units below the payment standard in areas without minority concentration and/or poverty-impacted areas.

11.5 PAYMENT STANDARD FOR A FAMILY

The payment standard is used to calculate the monthly housing assistance payment (HAP) for a family under the Housing Choice Voucher program. The HAP, or subsidy, is arrived at by taking the lower of:

- Payment standard minus the Total Tenant Payment (TTP) or
- Gross rent for the unit minus the TTP.

Under the HCV program, if the gross rent for the unit is lower than the payment standard, the family will pay the full TTP. If the gross rent for the unit is higher than the payment standard, the family will pay the TTP plus the amount by which the gross rent exceeds the payment standard.

The payment standard amount for a family is the lower of:

- Payment standard amount for the family unit size, or
- Payment standard amount for the size of the unit leased by the family

If the unit is located in an exception area, the HAFC must use the appropriate payment standard amount for the exception area.

The payment standard in place on the effective date of the HAP contract remains in place for the duration of the contract term unless the HAFC increases or decreases its payment standard.

11.5.1 When the Payment Standard Increases

If a payment standard is increased, the higher payment standard is used in calculating the HAP at the time of the family's first regular (annual) reexamination. Families requiring or requesting interim reexaminations will *not* have their HAP payments calculated using the higher payment standard until their next annual reexamination.

11.5.2 When the Payment Standard Decreases

[24CFR 982.505]

If the amount of the payment standard decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly housing assistance payment. The HAFC must determine the payment standard for the family as follows:

- Step 1: At the first regular reexamination following the decrease in the payment standard amount, the HAFC will determine the payment standard using the decreased payment standard amount.
- Step 2: (First reexamination payment standard amount). The HAFC will compare the payment standard amount from Step 1 to the payment standard amount last used to calculate the monthly housing assistance payment for the family. The payment standard amount used by the HAFC to calculate the monthly HAP at the first regular reexamination following the decrease in the payment standard amount is the higher of these two payment standard amounts. The HAFC will advise the family that the application of the lower payment standard amount will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard amount.
- Step 3: (Second reexamination payment standard Amount). At the second regular reexamination following the decrease in the payment standard amount, the lower payment standard amount will be used to calculate the monthly HAP for the family unless the HAFC has subsequently increased the payment standard amount. Current regulations do not give a housing authority discretion to set policy in this matter.

11.5.3 Change in the Family Unit Size

Irrespective of any increase or decrease in the payment standard amount, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

11.6 RENT REASONABLENESS DETERMINATIONS

[24 CFR 982.503, 982.507, PIH 2003-12]

The Housing Authority is responsible for ensuring that the rents charged by owners are reasonable based upon objective comparables in the rental market.

The Housing Authority will complete a rent-reasonable determination prior to entering in to a new contract with the owner. The Housing Authority will also complete a rent-reasonableness determination upon request by the owner to adjust the contract rent. The Housing Authority will ensure that the requested rent:

1. Does not exceed rents currently charged on new leases by the same owner for an equivalent assisted or unassisted unit in the same building or complex, and
2. Is reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.

The Housing Authority must re-determine rent reasonableness if directed by HUD and based on a need identified by the Housing Authority's auditing system. The Housing Authority may elect to re-determine rent reasonableness at any other time.

At all times during the assisted tenancy, the rent paid to the owner may not exceed the reasonable rent as determined by the Housing Authority.

If requested, the owner must give the Housing Authority information on rents charged by the owner for other units in the complex or elsewhere.

The data collected is used in a rent comparable system. This system calculates a variety of criteria to provide rent comparable information, including:

1. Size
2. Location
3. Quality
4. Amenities
5. Age of unit
6. Unit type
7. Utilities
8. Housing Services

9. Maintenance

The rent reasonableness database will retrieve at least 3 open market comparables to be used for rent determination. All comparables will be based on the rent that the unit would command if leased in the current rental market. When 3 open market comparables are not available, the reason will be clearly documented.

11.6.1 Making and Documenting the Rent Reasonableness Determination [PIH 2003-12]

Rent reasonableness data will be used to make a side-by-side comparison of the proposed unit against three open market rental units. Up to 9 comparability factors may be reviewed to ensure consistency. While not all factors will be identical they should be sufficiently similar to demonstrate they are comparable units.

PIH Notice 2003-12 clarifies that housing authorities have some leeway in the use of these 9 comparability factors. It clarifies that “each PHA should have appropriate and practical procedures for determining rental values in the local market.” Written procedures or specialized rent reasonableness software will be used in order for the rent reasonableness documentation to reflect the selected units do in fact represent:

- similar units overall;
- similar units in the same general location; and
- are similar in terms of the overall quality of housing services provided.

The user should negotiate within the rent comparable range determined by available comparables. When rent is negotiated above the average rent, the file will be documented as to the reason rent was negotiated above the average.

If the owner or property manager requests a rent higher than the average rate and supplies information that the rent being requested is rent-reasonable the user may negotiate higher than the average rent. Rents negotiated above the average rent must be verified and clearly documented.

If data retrieved is insufficient to meet 3 open market comparables the Housing Authority may exercise one of the following methods for making rent reasonableness determinations, and will document why an alternate method of documenting was needed. Alternate methods include:

- Owner will be asked to supply additional rental amounts for comparable unassisted units.
- When there are no comparable units of like bedroom size, HAFC will use

a multiplier of 15% per bedroom size to estimate the rental value of the larger-size bedroom unit.

- Comparables may be used from outside areas which are considered comparable to the proposed unit.

11.7 OWNER PAYMENT IN THE VOUCHER PROGRAM

[24 CFR 982. 503]

The maximum subsidy for each family is determined by the Payment Standard for the Voucher size issued to the family, less 30% of the family's Monthly Adjusted Income. The actual subsidy level could be less if the family is required to pay the Minimum Total Tenant Payment (10% of the family's Monthly Income).

The Voucher size issued to the family is based on the HAFC's Subsidy Standards. The Payment Standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected.

The Housing Assistance Payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

11.7.1 Subsidy Calculation

Under the Housing Choice Voucher Program, the HAP subsidy is *the lower of*:

- The Payment Standard minus the Total Tenant Payment, OR
- The gross rent (rent to the owner plus utility allowance) minus the Total Tenant Payment

Total Tenant Payment is the highest of:

- Thirty (30) percent of the monthly adjusted income
- Ten (10) percent of monthly gross income
- Welfare rent (in as paid states) or
- The HAFC minimum rent (see Chapter 6)

A family renting a unit above the Payment Standard also pays the highest of the amounts above, plus the amount by which the gross rent for the unit exceeds the Payment Standard. An example of the subsidy calculation is as follows:

EXAMPLE: Subsidy Calculation:

Gross Rent is lower than Payment Standard

\$575	Payment Standard
-150	TTP
<hr/> \$425	Maximum Subsidy
\$570	Gross Rent
-150	TTP
<hr/> \$420	HAP Subsidy

11.8 MAKING PAYMENTS TO OWNERS

[24 CFR 982.451, 982.311(d)(1)]

Once the HAP Contract is executed, the HAFC begins processing payments to the landlord. The effective date and the amount of the HAFC payment is communicated in writing to the family and owner. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Payments are disbursed by Accounting to the owner each month as described below.

The owner is allowed to keep the housing assistance payment for the month when the family moves out of the unit, except when a participant moves from one unit to another, owned by the same owner; double subsidy for the partial days of the month is not allowed.

Payments will only be disbursed on the first of the month and at mid-month through Electronic Funds Transfer (EFT) process. Exceptions may be made with the approval of a Manager or above in cases of hardship to distribute payments any other time.

Payments that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check. Owners will be advised there may be a \$10 processing fee for re-issuance of a HAP payment.

11.9 RENT ADJUSTMENTS

[24 CFR 982.519 and 982.308 (g)]

Rent adjustment is a request to increase the existing contract rent. The request for a rent adjustment must be completed by the owner/agent. The owner/agent can request a rent adjustment after the initial lease term by providing a copy of the written 60 day notice to increase rent to both the family and the HAFC. The following steps must take place before the request can be approved:

- All requests must be submitted to the family and the HAFC at least 60 days prior to the effective date of the rent adjustment.
- The unit must have passed the Housing Quality Standard inspection within the last twelve months.
- If there are any other changes to the lease agreement such as who is responsible for utilities/appliances or the term of the lease, these changes must be in writing. The owner must immediately provide the HAFC with a copy of these changes. The HAFC will execute a new HAP contract reflecting these changes.
- The amount requested cannot exceed rents currently charged by the owner for a comparable unassisted units in the same building or complex (on the premises), and
- The amount requested must be reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.
- Family must give consent of their acceptance of proposed rent increase by owner.

11.9.1 Rent Adjustment Determination

All rent adjustment determinations will be based on the rent reasonableness determination method previously described in this chapter. If the rent adjustment is approved, the change in rent does not affect the automatic renewal of the lease and does not require a new lease/contract or an executed amendment. A notice of rent adjustment letter will be sent to the owner and the family.

If the HAFC is not able to accept the amount of the owner's proposed increase because it exceeds the HAFC's rent reasonableness determination for a comparable unassisted unit, the HAFC will contact the owner to negotiate rent. HAFC may inspect the unit for the purpose of determining rent reasonableness. Once the amount has been negotiated and approved, a notice of rent adjustment letter will be sent to the owner and the family.

If, during the negotiation process, the HAFC and the owner cannot reach an agreement on the rent adjustment, the HAFC will send a letter to the owner denying the request for rent adjustment.

11.9.2 Special Adjustments

[24 CFR 982. 520]

An owner may request a special adjustment based on substantial and general increases in real property such as: taxes, special government assessments, or costs of utilities. The rent requested must be found to be reasonable and must be approved by HUD.

CHAPTER 12: REEXAMINATIONS

12.1 INTRODUCTION

The HAFC is required to reexamine each family's income and composition at least every twelve months, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and HAFC policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Outcomes from Recertifications. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS

12.2 OVERVIEW

The HAFC must conduct a reexamination of family income and composition at least every twelve months. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

12.3 SCHEDULING ANNUAL REEXAMINATIONS

The HAFC must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period, and may require reexaminations more frequently.

The HAFC will begin the annual reexamination process up to 120 days in advance of its scheduled effective date. Generally, the HAFC will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

12.3.1 Notification of and Participation in the Annual Reexamination Process

The HAFC is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is described below.

Families generally are required to complete the annual reexamination process by mail.

Notification of the annual reexamination process will be sent by first-class mail and will contain the certification packet for completion and must be returned by the specified due date.

If the family is unable to return the packet within the deadline, the family should contact the HAFC in advance of the due date to request an extension. If a family does not provide required information by the deadline, including any extension granted, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 15) will be sent to the family's address of record.

12.4 CONDUCTING ANNUAL REEXAMINATION

As part of the annual reexamination process, families are required to provide updated information to the HAFC regarding the family's income, expenses, and composition [24 CFR 982.551(b)]. (For policy regarding how the family should request to add new family members to their family composition, see *Changes in Family and Household Composition* in this Chapter).

12.4.1 Annual Reexamination by Mail

The family will be notified by mail up to 120 calendar days in advance of the anniversary date of the requirement to complete their annual reexamination process. If requested as an accommodation by a person with disabilities, the HAFC will provide the notice in an accessible format; home visits may also be requested for this purpose so the HAFC can assist the family in completing their annual reexamination requirement. The HAFC will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Families will be asked to mail in all required information (as described in the reexamination notice) with their completed reexamination packet. The required information will include the Personal Declaration Packet, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation

related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time their packet is mailed to the HAFC, must be provided within 10 calendar days or the next day the agency is open after the 10th calendar day of the written request for the incomplete information which the HAFC will mail to the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information requested within the required time frame, including any extensions, the family will be sent a notice of the HAFC's intent to terminate the family's assistance; (see Chapter 15).

12.4.2 Conducting Face-to-Face Interviews

While most reexaminations are conducted by mail, face-to-face interviews may be conducted at any time at the HAFC discretion, or if needed by a person with disabilities as a reasonable accommodation.

When using this method the HAFC will normally require the head of household and spouse to attend the interview. If the head of household is unable to attend the interview, any adult member who is available may attend the appointments unless a specific member is identified.

12.4.3 Documents Required from the Family

[Voucher Program Guidebook, Chapter 12]

In the notification letter to the family, the HAFC will include instructions for the family to mail in (or bring to the interview) the following documents:

1. Documentation of income for all family members
2. Documentation of all assets
3. Documentation of any deductions/allowances
4. Personal declaration form completed by the head-of-household
5. Social Security and/or Immigration cards and birth certificates for any new family members
6. Consent forms for criminal background checks

At annual reexamination, HAFC will use the same procedures for obtaining and verifying information that were used at admission; (see Chapter 7).

12.4.4 Failure to Respond to Notification of Requirement for Annual Reexamination

After receiving the Personal Declaration reexamination packet, the family is required to complete and return the packet with all requested documents on or before the due date listed in the reexamination notification. Failure to meet the deadline is grounds for termination of assistance. For more details on missed

deadlines, and for exceptions to the policy which may be made by a supervisor if the family is able to document an emergency situation which requires an extension on the time needed to comply with the annual reexamination requirement, see Chapter 15.

12.4.5 Criminal Background Checks

Criminal background checks will be conducted for all new adults (age 18 and above), live-in aides, household members being added to a currently assisted household, and all incoming families porting into the HAFC's jurisdiction.

As part of the annual reexamination process criminal backgrounds may be conducted for adults (age 18 and over).

12.5 DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS

[24 CFR 982.552(b)(5)]

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

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. During the annual reexamination process, the HAFC will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612(see Chapter 4) by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in the criteria for admission in Chapter 4, the parent's income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Chapter 15.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the HAFC will process a reexamination in accordance with the policies in this chapter.

12.6 ANNUAL RECERTIFICATION EFFECTIVE DATES

The HAFC must establish policies concerning the effective date of changes that

result from an annual reexamination [24 CFR 982.516].

In general, **an increase in the family share** of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If the HAFC causes a delay in processing the annual reexamination, increases in the family share of the rent will take effect on the first of the month following the end of a 30-day notice period.

In general, a decrease in family income that results in a decrease in tenants portion from an annual reexamination will take effect on the first day of the month following the date the change was reported; e.g., family reports a decrease of income in the reexamination packet on 01/15/17; regardless of when the verification comes (see exceptions below) the HAFC will make the new family portion effective on 02/01/17. Also, the family's reexamination anniversary date will change to 02/01/17, which is the new effective date plus one year.

- If the family causes a delay (or if the decrease in tenant portion is not due to a decrease in income) in processing the annual reexamination, decreases in the family share of the rent will be applied effective the annual anniversary date, or from the 1st day of the month following the date all required documentation was submitted by the family, whichever is later.
- Any delay in processing of the annual reexamination caused by the HAFC will be made effective the first of the month following the date the change was reported in writing.

12.6.1 Determining Whether Delay Was Caused by the Family

Delays in reexamination processing are considered to be caused by the HAFC if the HAFC fails to act promptly in requesting or following up on required verifications.

PART II: INTERIM REEXAMINATIONS

[24 CFR 982.516]

12.7 OVERVIEW

Family circumstances may change throughout the period between annual

reexaminations. HUD and HAFC policies dictate what kind of information about changes in family circumstances must be reported, and under what circumstances the HAFC must process interim reexaminations to reflect those changes. HUD regulations also permit the HAFC to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

The HAFC must attempt to complete the interim within 30 days from the receipt of the family's written request and all required documents.

This part includes HUD and HAFC policies describing the changes families are required to report and how the HAFC will process both HAFC- and family-initiated interim reexaminations.

12.7.1 Update Voucher Size

Changes in voucher size and payment standards do not occur during the interim certification process unless an error in the voucher size/payment standard was made at the last action (annual reexamination or admission to the program). If a family member is added or removed, the voucher/payment standard change is made at the time of the annual certification.

12.8 CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

HUD requires the HAFC adopt policies prescribing when and under what conditions the family must report changes in family composition; and when the HAFC will conduct an interim reexamination.

The HAFC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations. In general, all changes to the family and household composition must be reported to the HAFC within 30 calendar days. Reporting requirements are described in further detail in the following sections.

12.8.1 New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HAFC approval. However, the family is required to promptly notify the HAFC of the addition [24 CFR 982.551(h)(2)]. The family must inform the HAFC of the birth, adoption or court-awarded custody of a child within 30 calendar days or the next day the agency is open after the 30th calendar day.

12.8.2 New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or

court-awarded custody, a family must request HAFc approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is being added, the HAFc will conduct an interim reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

All changes in family composition must be approved by the HAFc prior to the individual moving in the unit. All changes in family composition (not requiring prior approval by HAFc) must be reported to the HAFc within 10 calendar days or the next day the agency is open after the 10th calendar day.

The HAFc will only approve an addition of a minor to the household composition resulting from birth, adoption, court-awarded custody, or a minor who is a member of the nuclear family who has been living elsewhere.

The HAFc will only approve the addition of an adult* for the following reasons:

- Due to marriage or marital-type relationship, or
- An adult child due to recent discharge from the military, or
- An adult child or a parent due to a disability; or
- The biological parent of a minor child.

*Except for additions of adults as mentioned above, additions of other adults to the household may be approved no more than once in a twelve-month period from the last recertification effective date.

The HAFc will allow for a one time exemption for single adult children previously removed from a household to be placed back into the household. In order to add adult children the individual must meet the following criteria, and where applicable, outlined in Chapter 4: Eligibility for admission and verified as outlined in Chapter 7.9.3:

- Been removed from the household one calendar year or less
- Be between the ages of 18-26

In order to add the adult the individual must meet the following criteria, where applicable, outlined in Chapter 4: Eligibility for admission and verified as outlined in Chapter 7.9.3:

- 4.5 Verification of Need for a Live-in Aide
- 4.6 Approval or Disapproval of a Particular Person as Live-in Aide
- 4.12 All Citizenship/Eligibility Immigration Status
- 4.13 Family Consent to Release of Information
- 4.14 Restriction on Eligibility of Students
- 4.17 Mandatory Denial of Assistance

- 4.18 Additional Prohibitions
- 4.19 Screening for Admission
- 4.19.2 Factors to Consider Prior to Final Determination
- 4.20 Consideration of Circumstances

If the HAFC determines an individual meets the HAFC's eligibility criteria as defined in Chapter 4, and if the owner provides written permission to add the new family member to the lease, the HAFC will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the HAFC determines that an individual does not meet the HAFC's eligibility criteria as defined in Chapter 4, the HAFC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

12.8.3 Departure of a Family or Household Member

Families must promptly notify the HAFC if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the HAFC also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a family or household member, live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HAFC within 10 calendar days or the next day the agency is open after the 10th calendar day.

Failure to report to the HAFC within 30 calendar days the departure of a family or household member is a violation of the family's obligations under the HCV program and may be grounds for termination of assistance. For actions the HAFC will take when non-reporting issues occur, see Chapter 23, *Investigating Errors and Program Abuse*.

12.9 CHANGES AFFECTING INCOME OR EXPENSES

The family is required to report all changes of income to the HAFC. The sections below will outline when the HAFC will conduct an interim reexaminations based on the reported changes.

The HAFC will not conduct an interim reexamination for increases in the family income, unless

- the family requests the HAFC to do so,
- there is also a change in the family composition, or

- if a family who had zero income obtains a source of income; in this case their rent will be adjusted to reflect the new income.

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12.9.1 Required Reporting

The HAFC requires that the family report all changes in income to the HAFC within 10 calendar days of the change; though a rent increase will be deferred until the annual reexamination unless the family requests that the increase be processed.

12.9.2 HAFC-Initiated Interim Reexaminations

When the family reports zero income, the HAFC will conduct an interim reexamination (or annual if within 120 days of the annual reexamination) every 120 days, as long as a zero-income family reports no income.

When the rent calculation results in a utility reimbursement payment to the family, the HAFC may conduct an interim reexamination every six months.

12.9.3 Family-Initiated Interim Reexaminations

HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

The family may request an interim reexamination any time and HAFC must process the request if the family reports a change that will result in a reduced family income.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report (e.g., an increase in an expense which would result in reducing the family's annual adjusted income; see Chapter 6 for a list of allowable expenses) and the change would result in a decrease in the family share of rent, the HAFC will conduct an interim reexamination.

12.10 PROCESSING THE INTERIM REEXAMINATION

12.10.1 Method of Reporting

The family must notify the HAFC of all changes in income or household composition in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the HAFC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HAFC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 30 calendar days or the next day the agency is open after the 30th calendar day of receiving a request from the HAFC. This time frame may be extended for good cause with HAFC approval. The HAFC will accept required documentation by email, mail, fax, or in person, with the exception of identity documents (i.e.: ID, social security cards, birth certificates); original and copy must be provided in person.

12.10.2 Effective Dates

The HAFC must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV Guidebook, p. 12-10].

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.

If the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the date the change was reported.

If an interim is within 120 days of the reexamination anniversary date, the HAFC will do a full reexamination and change the anniversary date to match the new effective date plus one year.

PART III: OUTCOMES FROM RECERTIFICATIONS

RENT CHANGE NOTICES AND HANDLING DISCREPANCIES

12.11 NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The HAFC must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent

The family must be given an opportunity for an informal hearing regarding the HAFC's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 19).

The notice also will state the procedures for requesting an informal hearing.

12.12 DISCREPANCIES

During an annual or interim reexamination, the HAFC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 18.

CHAPTER 13: TRANSFERS AND PORTABILITY

[24 CFR 982.314; 982.353 (b); 982.355; PIH Notice 2011-3]

13.1 INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the HAFC's jurisdiction, or to a unit outside of the HAFC's jurisdiction within the USA and territories under Portability procedures. The regulations also allow the HAFC the discretion to develop policies which define any limitations or restrictions on moves. This chapter is separated into three sections which will explain the procedures for moves 1) policies relating to transfers within the HAFC's jurisdiction, 2) policies relating to transfers outside the HAFC's jurisdiction, and 3) restrictions on portability.

Section One: Policies Relating to Transfers Within the HAFC's Jurisdiction

This section will explain the policies that the HAFC must follow when a family is requesting to transfer their assistance from one unit to another within the jurisdiction, and any restrictions that apply.

Section Two: Policies Relating to Transfers Outside the HAFC's Jurisdiction (Portability)

This section will explain the policies that the HAFC must follow when a family is requesting to move outside of the jurisdiction which is referred to as Portability.

Section Three: Restrictions on Portability

This section covers the policies regarding restrictions which apply when a family requests to move outside the HAFC's jurisdiction.

SECTION ONE: POLICIES RELATING TO TRANSFERS WITHIN THE HAFC'S JURISDICTION

This section pertains to any request which does not involve portability. For information about portability see Sections Two and Three of this chapter.

13.2 ALLOWABLE MOVES

A family may move to a new unit under the following conditions;

1. HAFC has terminated the HAP contract for owner breach.
2. The lease was terminated by mutual agreement of the owner and the family. For example, if a decrease in the voucher/subsidy size creates a hardship for the participant, the participant and landlord are allowed to

enter into a Mutual Agreement so that the participant can find a more affordable unit.

3. The owner has given the family a notice to vacate, or has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
4. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner) for owner breach or otherwise.
5. The family has given proper notice of lease termination, and the move is needed to protect a victim who is covered under the Violence Against Women Act of 2005. See Section 7.12, Verification Under VAWA ACT.

13.3 RESTRICTIONS ON MOVES

[24 CFR 982.314(e), 982.552(c)(1)(vii); 982.54 (d) (19)]

The HAFC will deny permission to move if:

- The family owes the HAFC money.

A family requesting to move must:

- have a current recertification and
- a current inspection (provided there is no breach of HQS by the family, which has not been corrected).

13.3.1 Moves within the First Year of the HAP Contract

Families will not be permitted to move until they have been under contract at least a year according to the effective date of their HAP contract.

The supervisor may make exceptions to these restrictions if there is proper supporting documentation from the client. The following are examples of when a mutual agreement would be accepted before the end of the first year:

1. To protect the health and or safety of a family member (e.g. domestic violence, witness protection programs, emergency fail HQS items);
2. To address an emergency situation over which the family or owner has no control (e.g. owner is going through foreclosure);
3. To allow a move, if needed as a reasonable accommodation, for a family who is a person with disabilities; and
4. To accommodate a change in family circumstances which requires a

move to a distant area (e.g. new employment or school attendance in a distant city)

The HAFC will deny permission to move if there is insufficient funding for continued assistance.

13.4 PROCEDURE FOR MOVES

13.4.1 Issuance of Voucher

The HAFC will issue the voucher when the verifications are current. Refer to Section 8.4, Issuance of Vouchers, if verifications are over 60 days old at time voucher would be issued.

13.4.2 Rescinding of Vacate Notice

If the family does not locate a new unit, they may remain in the current unit so long as the owner and family submit a rescinding letter.

13.4.3 Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the HAFC proper written notice of any intent to move.

The family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to the HAFC simultaneously.

13.4.4 Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves. The landlord is allowed to retain the Housing Assistance Payment (HAP) for the month in which the HAP contract was terminated.

SECTION TWO: PORTABILITY

[24 CFR 982.353; PIH Notice 2011-3]

Portability applies to families moving out of (Outgoing Portability) or into (Incoming Portability) a housing authority's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial housing authority's jurisdiction. The unit may be located anywhere in the USA in the jurisdiction of a housing authority with a tenant-based assistance program.

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13.5 OUTGOING PORTABILITY

[24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a voucher-holder or participant family has the right to receive tenant-based voucher assistance to lease a unit outside HAFC's jurisdiction, anywhere in the United States, in the jurisdiction of a Public Housing Authority (PHA) with a tenant-based program.

When a family requests to move to an area outside of the HAFC's jurisdiction, they are exercising their right to outgoing portability. In this instance the HAFC acts as the Initial housing authority and the following information is a list of the responsibilities the HAFC is responsible for.

For restrictions on portability, refer to Chapter 13.7.

13.5.1 Responsibility of the Family

The family must consider and verify whether they are eligible before taking any action to move.

- Provide a valid vacate notice to the HAFC and the owner
- Provide HAFC the specific information of the Receiving PHA
- Supply the name, address, phone number and portability contact name for the housing authority which has jurisdiction in the area where they want to move
- The family is to provide current contact information.
- If there is more than one PHA in the area, and depending on the circumstances; the family and/or PHA will choose the receiving PHA.
- Be in compliance with all of their family obligations
- The family will be required to meet with the HAFC portability specialist to complete the portability request

13.5.2 Responsibility of the Initial PHA

- The PHA will brief the family on the process that must take place to exercise portability.
- In cases where the family is not currently on the program, the PHA will determine whether the family is income-eligible in the area where the family wants to lease a unit. If the family is not income eligible in the area to which the family wishes to move, the PHA must inform the family they may not move to the area in question and receive voucher assistance.
- The PHA must contact the Receiving PHA via e-mail or other confirmed delivery method to determine whether the Receiving PHA will bill or absorb the family's voucher. Based on the Receiving PHA's response, the Initial PHA must determine whether they will approve or deny the portability request. See Section 13.7, Restrictions on Portability in this

chapter.

- Once request is approved, the Initial PHA issues the family a voucher and must contact the Receiving PHA on the family's behalf..
- The Initial PHA must advise the family how to contact and request assistance from the receiving PHA.
- Advise the family that they must promptly contact the Receiving PHA and comply with Receiving PHA's procedures for incoming portable families.
- Promptly notify the Receiving PHA to expect the family.
- Pay the Receiving PHA 80% of the Initial PHA's ongoing administrative fee within 30 calendar days of receipt of PART II of the Form HUD-52665.
- Reimburse the Receiving PHA for the HAP payment made on behalf of the family.
- Make payment to the Receiving PHA per the Portability Billing Form.

13.5.3 Responsibility for Sending Documents

The Initial PHA must also send to the Receiving PHA the following documents:

- The current HUD-50058
- Copies of the income verification for the current HUD-50058
- Copies of the citizen/eligible immigrant verification
- A copy of the family's voucher
- The Portability Form, HUD-52665, with Part I completed
- Family Self-Sufficiency information if the family is participating in FSS

13.6 INCOMING PORTABILITY

[24 CFR 982.355, PIH Notice 2011-3]

When a family exercises their rights under portability to move into a new jurisdiction, the new housing authority is called the Receiving PHA. Below is a list of the responsibilities of the Receiving PHA in terms of assisting the family.

13.6.1 Responsibilities of the Receiving PHA

These are the responsibilities of the Receiving PHA:

- The PHA must promptly respond by e-mail or other confirmed delivery method to the Initial PHA's inquiry to determine if the family's voucher will be billed or absorbed. The decision to bill or absorbed cannot be reversed at a later date.
- The Receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the Initial HA tenant-based program.
- The Receiving PHA's selection preferences do not apply.

- The Receiving PHA's waiting list is not used.
- The Receiving PHA may opt to screen or conduct background checks using the Receiving PHA's screening criteria, the Receiving PHA must not delay issuing of voucher or otherwise delay approval of a unit until those processes are completed.
- The Receiving PHA is expected to issue a voucher to the family within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the Receiving PHA, and the family complies with the Receiving PHA's procedures.
- The voucher cannot expire 30 calendar days before the original expiration date of the Initial HA voucher. The Receiving PHA decides whether to extend or suspend.
- Determine the family unit size based on the subsidy standards of the Receiving PHA.
- Promptly notify the Initial HA if the family fails to submit a request for tenancy approval within the term of the voucher.
- Promptly notify the Initial HA if the family has leased an eligible unit under the program.

The family must submit a request for approval of tenancy to the Receiving PHA during the term of the Receiving PHA voucher.

To provide tenant-based assistance for portable families, the Receiving PHA must perform all HA program functions such as reexaminations of family income and composition.

At any time the Initial HA or the Receiving PHA may make a determination to deny or terminate assistance to the family in accordance with program regulations.

The Receiving PHA may deny or terminate assistance for action or inaction of the family.

13.6.2 When the Receiving PHA Chooses to Bill the Initial PHA

If a HAP contact is executed, the Receiving PHA must bill the Initial PHA within 10 days of the HAP execution, but no later than 60 days following the expiration of the family voucher issued by the Initial PHA.

- The Portability Form, HUD-52665, with the applicable sections of Part IIB completed.
- A current HUD-50058 if item 3 or 4 are completed on Part II-B of the Portability Billing Form.

- Supply the name of PHA staff designated for inquiries on eligibility and billing.
- The Administrative Fee schedule for billing purposes.
- The Receiving PHA tax ID number.

13.6.3 Absorption

The HAFC will absorb all port-in families into its own voucher program provided that there is funding available. If funding is unavailable at time of portability, the HAFC may absorb a family into its own program at a later date once the HAP contract has been executed. After absorption, the family is assisted with funds available under the HAFC's voucher program.

13.6.4 Income and TTP of Incoming Portables

As Receiving PHA, the HAFC will not conduct a recertification interview unless there has been a change in the family's circumstances. If the family's income exceeds the income limit of the HAFC, the family will not be denied assistance unless the family is an applicant and over the Very-Low Income Limit. If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the HAFC's jurisdiction, the HAFC will refuse to enter into a contract on behalf of the family at \$0 assistance.

13.6.5 Requests for Tenancy Approval

A briefing will be mandatory for all portability families.

When the Family submits a Request for Tenancy Approval, it will be processed using the Receiving PHA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the Initial HA will be notified within 60 calendar days by the Receiving PHA. If the Family leases up successfully, the Receiving PHA will notify the Initial HA within 10 working days, but no later than 60 days following the expiration date of the family voucher issued by the Initial PHA, and the billing process will commence. If the Receiving PHA denies assistance to the family, the HAFC will notify the Initial HA within 60 calendar days and the family will be offered a review or hearing. The Receiving PHA will notify the Family of its responsibility to contact the Initial HA if the family wishes to move outside the HAFC's jurisdiction under continued portability.

13.6.6 Payment to the Receiving PHA

When billed, the Initial HA will reimburse the Receiving PHA for 100% of the Housing Assistance Payment, 100% of the Special Claims paid on HAP contracts effective prior to 10/2/95, and 80% of the Administrative Fee (at the Initial HA's rate).

SECTION THREE: RESTRICTIONS ON PORTABILITY

[24 CFR 982.314, 982.552; 982.54 (d) (19)]

With regard to a request to move with continued assistance, participant families will not be permitted to move until they have been under contract at least a year according to the effective date of their HAP contract. Families will not be permitted to move outside the HAFC's jurisdiction under portability procedures during the initial year of assisted occupancy without supervisor approval. An example of such an exception would be where the family obtains new employment outside the HAFC jurisdiction which was secured after issuance of the voucher.

The supervisor may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control. The HAFC will deny permission to move if there is insufficient funding for continued assistance.

13.7 RESTRICTIONS OF PORTABILITY

The HAFC will deny permission to move for the same reasons listed in *Restrictions on Moves* in this chapter, plus the following reasons:

- a. The PHA has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553
- b. The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the Initial PHA jurisdiction for twelve months since being admitted to the program. (24 CFR 982.353(c)).
- c. The family is an applicant and is not income-eligible in the area in which they wish to initially lease a unit. (24 CFR 982.353(d)(1)).
- d. The requested move does not comply with PHA established policies on the timing and frequency of moves.
- e. The PHA does not have sufficient funding for continued assistance to support the move in accordance with (24 CFR 982.314(e)(1)).

13.7.1 When a Non-Resident Applicant Requests to Move

A family whose head or spouse has a domicile (legal residence) in the jurisdiction of the city and county of Fresno at the time the family first submits its application for participation in the program to the HAFC may lease a unit anywhere in the jurisdiction of the HAFC or outside the HAFC jurisdiction as long as there is another entity operating a tenant-based Section 8 program covering the location of the proposed unit.

A *non-resident* applicant, however, does not have that right. A non-resident applicant [as described in 24 CFR 982.353(c)] is one where neither the head of household nor the spouse had a legal residence in the jurisdiction of the Initial HA at the time when the family first submitted an application for participation in the program to the Initial HA. Such an applicant who was living in another jurisdiction at the time he or she made an application in Fresno County for assistance, will not be permitted to take the voucher and lease up in another city. The applicant may only lease up within the jurisdiction of the HAFC and is not permitted to move outside HAFC's jurisdiction during the initial lease term.

13.7.2 Exceptions to the Non-Resident Restriction

The HAFC will consider granting an exception to the above restriction pertaining to non-resident voucher holders for the following reasons:

- To protect the health or safety of a family member;
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area);
- To address an emergency situation over which a family has no control;
- For purposes of reasonable accommodation of a family member who is a person with disabilities.

13.7.3 Insufficient Funding to Support the Move

HAFC cannot deny a request to move under portability unless previously approved by HUD due to insufficient funding. The PHA may only deny a request for a family to move to a higher cost unit (within the PHA's jurisdiction or to a higher cost area) if the PHA is unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation for housing assistance payments.

The PHA must provide written notification to the local HUD Office when it is necessary to deny moves to higher cost units and/or area. The notification must include:

1. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses.
2. A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to a higher cost unit/area is in place.
3. A copy of the PHA's policy stating how the PHA's will address families who have been denied moves.

Before denying the family's request to move due to insufficient funding, the Initial

PHA must contact the Receiving PHA and confirm via e-mail or other confirmed delivery method whether the Receiving PHA will administer or absorb the family's voucher.

If it becomes necessary for HAFC to disapprove moves to a higher cost unit or higher cost area due to insufficient funding:

- This will be announced to all owners and participants.
- A list of families wanting to move under portability will be retained for 60 days, after which time the list will expire.
- Families who remain on the list and still want to move will have to initiate a new transfer request.

The PHA may not deny a family's request to move to a higher cost unit or area because it wishes to admit additional families from its waiting list into its voucher program.

CHAPTER 14: CONTRACT TERMINATIONS

14.1 INTRODUCTION

This chapter identifies the key documents/contracts that set forth the responsibilities of each party involved in the rental assistance relationship and outlines the policies and procedures under which these contracts can be terminated.

14.2 DESCRIPTION OF DOCUMENTS

There are three parties involved in the rental relationship: the assisted family, the owner and the Housing Authority.

The rights and responsibilities of the assisted family are defined in the voucher and the Statement of Family Obligations. A copy of the voucher is provided to the family at admission and each time a new voucher is issued. The family signs the Statement of Family Obligations annually.

The relationship between the family and the owner is outlined in the rental lease. Generally, the term of the lease is for one year and then turns into a month-to-month tenancy. Although the Housing Authority is not a part of the lease, HUD regulations allow public housing agencies to act against the family for serious or repeated violations of the lease.

The terms of the relationship between the owner and the Housing Authority are outlined in the Housing Assistance Payment (HAP) contract. The term of the HAP contract is the same as the term of the lease.

14.3 TERMINATION OF THE LEASE BY THE FAMILY: MOVES

[24 CFR 982.309(c)]

For continued tenant assistance, the family cannot terminate the lease until after the initial term of the lease except for material breach of the lease by the owner. The lease determines the notice period for termination to the owner. Most leases require, at minimum, a 30-day notification.

14.4 TERMINATION OF THE LEASE BY THE OWNER

An owner or manager may bifurcate (separate) a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance, or otherwise penalizing the victim of such violence which is also a tenant or lawful occupant.

14.4.1 Terminating the Lease During the Initial Term of the Lease

[24 CFR 982.310(a)]

During the term of the lease, the owner may not terminate the tenancy except for good cause, which includes serious or repeated violations of the lease and/or violations of federal, state or local law that imposes obligations on the family in connection with the use of the unit.

Under such conditions, the owner must provide both the family and the Housing Authority with a copy of any notice to move or eviction action. An eviction action is defined as a notice to vacate, or a complaint, or other initial pleading used under state and local law to commence an eviction action. Any eviction notice served to a family must specify the grounds for termination of the tenancy.

An owner may begin termination of a tenancy for good cause by serving a legal notice of termination on the family for the following reasons:

1. Serious or repeated violation of the terms and conditions of the lease [24 CFR 982.310 (a)(1)];
2. Violation of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises [24 CFR 982.310(a)(2)]
3. Other good cause, [24 CFR 982.301(a)(3)] including:
 - Criminal activity by the tenant, any member of the household, a guest, or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises [24 CFR 982.310(d)]
 - Any drug-related criminal activity on or near the premises; or
 - Tenant disturbance of neighbors, destruction of property, or behavior resulting in the damage of the premises.

14.4.2 Terminating the Lease After the Initial Term of the Lease

After the initial term of the lease, the owner may terminate the lease for other good cause. Examples of other good cause include:

- Business or economic reason for regaining possession of the unit
- Owner's desire to repossess the unit for personal or family use or for a purpose other than residential property;

When terminating the lease for business or economic reasons, the owner is required to provide a 90-day notice to both the family and the Housing Authority.

14.4.3 Terminating the Lease due to Foreclosure During the Term of the Lease

(Foreclosure ACT of 2009)

- During the term of the lease, an owner seeking to terminate the lease and vacate the property prior to sale shall not constitute good cause.
- If the tenant has more than 90 days left on the lease they can stay in the unit until the end of the lease.
- If the new owner seeks to occupy the unit as their primary residence, the owner is required to provide a 90-day notice to both the family and the HAFC.

14.5 MUTUAL TERMINATION OF THE LEASE

In cases where the owner and the family agree to terminate the lease, both parties have an obligation to notify the Housing Authority in writing at least 30 calendar days in advance of the vacate date in order that the Housing Authority may avoid overpayment to the owner. If the family has properly notified the Housing Authority and is in good standing, they will be scheduled for a transfer appointment where they will receive a voucher and all the necessary documents to search for a new unit.

In cases of domestic violence, the provisions contained in The Violence Against Women Act 2013 may be cause for mutual termination of the lease. See sections 13.2.5 and 15.6.

14.6 TERMINATION OF THE HAP CONTRACT BY HOUSING AUTHORITY

[24 CFR 982.453-982.454]

The Housing Authority will terminate the HAP contract as follows:

- When the Housing Authority terminates program assistance for the family.
- When the owner has breached the HAP contract.
- If the family is required to move from a unit which is overcrowded based on the Housing Authority's current subsidy standards [24 CFR 982.403(a)]
- If funding is no longer available under the Annual Contribution Contract - ACC [24 CFR 982.454].
- If the lease is terminated by the owner or tenant.

- If the family moves from the contract unit, the HAP contract terminates automatically.
- The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.
- Upon receipt of a notice of foreclosure on the contract unit due to owner failure to comply with mortgage agreement.

Any of the following actions will be considered a breach of the HAP contract by the owner:

- The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit according to the Housing Quality Standards (HQS), including any standards the Housing Authority has adopted in this policy [24 CFR 982.453(a)(1)].
- The owner has violated any obligation under any other HAP contract under section 8 of the 1937 Act (42 U.S.C. 1437f) [24 CFR 982.453(a)(2)].
- The owner has committed fraud, bribery or any other corrupt criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)].
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for the projects with mortgages insured by HUD or loans made by HUD [24 CFR 982.453(a)(4)].
- The owner has engaged in drug-related criminal activity [24 CFR 982.453(a)(5)].
- The owner has committed any violent criminal activity [24 CFR 982.453(a)(6)].

14.6.1 If Funding is No Longer Available Under the Annual Contribution Contract - ACC

Should funding no longer be available under the Annual Contributions Contracts (ACC) and the Housing Authority has to terminate housing assistance due to the lack of Housing Assistance Payments (HAP) funding, the termination policy will protect the elderly and disabled families and veterans of U.S. Armed Forces, as well as those families that participate in Family Self-Sufficiency, Project-Based Vouchers, and the Section 8 Homeownership Programs.

Effective May 1, 2013:

For the purpose of this termination policy, the term "disabled family"

includes a family with a disabled adult member.

The termination methodology will be First In, First Out (FIFO).

If the FIFO selection methodology is required, HAFC will establish a priority list for reinstatement of the households terminated due to the lack of HAP funding. The affected households: a) must complete the income eligibility process for the reinstatement; b) will have the Housing Choice Voucher (HCV) program income limits waived; and c) the criminal background screening will apply to affected households when being reinstated after a period of six months.

Effective January 1, 2015

When a participant's assistance is terminated under the First In First Out policy due to a shortage of program funding, these families will have reinstatement first rights when vouchers again become available. The right to reinstatement will be for up to one year after the effective date of the family's termination of assistance.

14.7 HAP PAYMENTS AND CONTRACT TERMINATIONS

[24 CFR 982.311]

When a HAP contract terminates, the Housing Authority will make payments in accordance with the HAP contract. The Housing Choice Department (HCD) will:

- Allow the landlord to retain the HAP for the month in which the termination or vacate occurred.
- Not provide any additional payments beyond the month of termination or vacancy.
- This does not apply if the unit is in abatement due to the landlord non-compliance.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

14.8 TERMINATIONS DUE TO RESTRICTIONS ON ASSISTANCE TO NONCITIZENS

[24 CFR 5.514]

A tenant's assistance will be terminated upon the following events if evidence of citizenship (i.e. the declaration) and eligible immigration status is not submitted:

- At initial occupancy, or
- For new occupants of assisted units (i.e. A new family member comes to live in the assisted unit), at first interim or regular reexamination following the person's occupancy.
- Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and secondary verification does not verify eligible immigration status of a family member; and the family does not pursue INS appeal or information hearing rights as provided in this section; or
- INS appeal and information hearing rights are pursued; but the final appeal or hearing decisions are decided against the family member; or
- The responsible entity determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the assisted housing unit of the family member. Such termination shall be for a period of not less than 24 months. This provision does not apply to a family if the ineligibility of the ineligible individual was considered in calculating any pro-ration of assistance provided for the family.

CHAPTER 15: TERMINATION OF ASSISTANCE

24 CFR 982.551 through 982.553

15.1 INTRODUCTION

The HAFC may terminate assistance for a family because of the family's action or failure to act. The HAFC will provide families with 1) written description of the Family Obligations under the program, 2) the grounds under which the HAFC can terminate assistance, and 3) the HAFC's informal hearing procedures. This chapter covers termination of assistance under HUD regulations and HAFC policies; how circumstances are factored into the HAFC's decision to terminate assistance; how a non-citizenship determination is reached; and how missed appointments and deadlines can result in the HAFC decision to terminate assistance.

15.1.1 General Definitions

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

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

Other criminal activity means any criminal activity including, but not limited to, violent criminal activity.

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

Pattern of abuse is defined as the use of a controlled substance or alcohol if there are more than three incidents during the previous 24 months. "Incident" includes but is not limited to arrests, convictions, no contest pleas, fines, and city ordinance violations.

Serious violation of the lease includes but is not limited to history of non-payment of rent, criminal or drug-related activity, damages to the unit, and serious or repeated lease infractions.

Pattern/history of lease violations is defined as 3 or more notices from the owner and/or property manager for serious or repeated lease infractions within a 24-month period.

Abusive or violent behavior toward HAFC personnel includes verbal as well as physical abuse or violence. Use of expletives that are generally considered

insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for termination of assistance.

Threatened refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence.

15.2 TERMINATION OF FAMILY ASSISTANCE

Form of Termination of Assistance (Participants) [24 CFR 982.552(a)] – Due to a household's action or failure to act, the HAFC may terminate assistance to participants by:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

15.3 MANDATORY TERMINATION

The HAFC **must** terminate assistance for the following reasons:

1. **Methamphetamine** – if any member of the household has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing [24 CFR 982.553 (b)(1) (ii)].
2. **Lifetime Registration:** If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program [24 CFR 982.553 (a) (2)]. The termination applies to sex offenders only.
3. **Criminal Activity (Drug-Related)** - Any household member has violated the family's obligation under 982.551 not to engage in drug-related criminal activity [24 CFR 982.553 (b) (1)(iii)].
4. **Current Illegal Drug Use for Any Household Members:** if any household member is currently engaged in any illegal use of a drug [24 CFR 982.553 (b) (i) (A)].
5. **A Pattern of Illegal Use of a Drug** – if the HAFC determines that a pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents [24 CFR 982.553 (b) (i) (B)].
6. **Alcohol Abuse** – if the HAFC determines that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents [24 CFR

982.553 (b) (3)].

7. **Serious Violation of the Lease** - if the family is evicted from housing assisted under the program for serious violation of the lease. [24 CFR 982.552 (b) (2)]
8. **Criminal Activity (Violent Criminal Activity)** - Any household member has violated the family's obligation under 982.551 not to engage in violent criminal activity [24 CFR 982.553 (b) (2)].
9. **Consent Forms**: The HAFC will terminate program assistance if any member of the family fails to sign and submit HUD-required or HAFC-required consent forms for obtaining information [24 CFR 982.552 (b) (3)].
10. **Citizenship Status**: The HAFC will terminate program assistance if no member of the family is a U.S. citizen or eligible immigrant; (see Chapter 14) [24 CFR 982.552 (b) (4)].
11. **Students in Higher Education**: If a student, applying for or participating in the HCV program separately from his parents, is a student enrolled at an institution of higher education AND is under the age of 24, not a veteran, unmarried, and does not have any dependent children, the student will be denied (if an applicant) or terminated (if a current HCV participant) if either his income separately or his parent's joint income does not meet the income requirements for admission to or participation in the HCV program [24 CFR 982.552 (b) (5)].
12. **Mandatory Social Security Numbers**: Where a family member is required to provide documentation of their SSN as required in Chapter 4, Mandatory Social Security Numbers and in Chapter 7, Verification of Social Security Numbers, failure on the part of the family member to provide the documentation will result in termination of the entire family. HAFC will terminate assistance if the family submits falsified Social Security number documentation. [PIH Notice 2012-10].
13. **End of Participation**: If the family is under contract and 180 days (six months) have elapsed since the HAFC's last housing assistance payment was made, the family will be terminated.

15.3.1 Zero Assistance Tenants

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated.

If, within the 180-day timeframe, an owner rent increase or a decrease in the

Total Tenant Payment causes the family to be eligible for a housing assistance payment, the HAFC will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment [24 CFR 982.455 (a)].

15.3.2 Re-instatement of Assistance Exception

If a family member is terminated from assistance due to an arrest for a criminal charge, the family may be re-instated upon documentation that the criminal charge was dismissed or the person was found “not guilty” by a court of law.

15.4 GROUNDS FOR TERMINATION OF ASSISTANCE

The HAFC **may** at any time terminate program assistance for a participant, for any of the following violations:

- Family Obligations: The family violates any family obligation under the program as listed in 24 CFR 982.551 [24 CFR 982.552 (c) (1) (i)]. See §982.553 (b) (2) concerning termination of assistance for crime by family members.
- Evicted from Federally Assisted Housing: If any member of the family has ever been evicted from federally assisted housing in the last five years [24 CFR 982.552 (c) (1) (ii)].
- Fraud, Bribery, or Other Corrupt or Criminal Act within a Federal Housing Program: If any family member has committed such acts in connection with a Federal housing program [24 CFR 982.552 (c) (1) (iv)].
- Outstanding Debt: The family currently owes rent or other amounts to the HAFC or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act [24 CFR 982.552 (c) (1) (v)].Non Reimbursement to HAFC for payments to owners: if the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease [24 CFR 982.552 (c) (1) (vi)].Repayment Breach with a Housing Authority: The family breaches an agreement with the HAFC to pay amounts owed to HAFC, or amounts paid to an owner by the HAFC (The HAFC, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to the HAFC or amounts paid to an owner by the HAFC. The HAFC may prescribe the terms of the agreement) [24 CFR 982.552 (c) (1) (vii)].
- Actual or Threatened Abusive or Violent Behavior toward HAFC Personnel: If the family has engaged in or threatened abusive or violent behavior toward HAFC personnel [24 CFR 982.552 (c) (1) (ix)], includes

verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for termination.

- A participant's misrepresentation of any information to HAFC and/or any other agency that is related to eligibility, preferences, housing history, allowances, family composition, and/or criminal history (i.e. Welfare Fraud).
- Family Self-Sufficiency (FSS) Non-compliance: If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation [24 CFR 982.552 (c) (1) (viii)].
- Non compliance: with any assistance programs, governmental agency and/or law enforcement.
- Eviction or records of disturbance of neighbors sufficient to warrant a police call which may adversely affect the health, safety, and peaceful enjoyment of the premises by the other residents or person residing in the immediate vicinity of the premises.
- Pattern of violent behavior- includes evidence of repeated acts of violence on the part of any individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.

Actual physical abuse or violence may be cause for termination of assistance.

Criminal Activity - The HAFC may terminate assistance if the HAFC determines that any household member has a history of any of the following:

- a. Drug-related criminal activity; up to three years from the date of the offense.
- b. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; up to three years from the date of the offense.
- c. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HAFC (including a HAFC employee or a HAFC contractor, subcontractor or agent); up to three years from the date of the offense.
- d. Violent criminal activity; up to five to seven years from the date of the offense, depending upon the seriousness of the crime committed.
- e. Convicted of any felony; up to three years from the date of the offense.

~~A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.~~

~~Although an arrest record cannot solely be used for denying or terminating program assistance, an arrest record can trigger an inquiry into whether there is sufficient evidence for the FH to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. FH will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct is fact occurred [PIH 2015-19].~~

~~An arrest record, however, can trigger an inquiry into whether there is sufficient evidence for a PHA to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. HAFC will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred [PIH 2015-19].~~

15.5 CONSIDERATION OF CIRCUMSTANCES

HUD authorizes the HAFC to consider all relevant circumstances or by proposition of law when deciding whether to termination assistance based on a family's past history except in the situations for which termination of assistance is mandated; see *Mandatory Termination* in this Chapter.

In deciding whether to terminate assistance because of action or failure to act by members of the family; the HAFC [24 CFR 982.552 (c) (2)]:

- Has discretion to consider all relevant circumstances in each case, including the seriousness of the case. The HAFC will use its discretion in reviewing, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the length of time since the violation occurred. The HAFC may also review the family's more recent history and record of compliance, and the effects of termination of assistance on other family members who were not involved in the action or failure to act [24 CFR 982.552 (c) (2) (i)].
- May impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were

culpable for the action or failure will not reside in the unit. The HAFC may permit the other members of a family to continue in the program [24 CFR 982.552 (c) (2) (ii)]. If the violating member is a *minor*, the HAFC may consider individual circumstances with the advice of Juvenile Court officials. The HAFC will also consider whether the culpable member is a victim of domestic violence, dating violence, or stalking.

- In determining whether to terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the HAFC [24 CFR 982.552 (c) (2) (iii)]:
 - Will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or
 - Has otherwise been rehabilitated successfully (42 U.S.C. 13661).
 - May require the family to submit evidence of the household member's current participation, or successful completion of a supervised drug or alcohol rehabilitation program.
- *Reasonable Accommodation:* If termination is based upon behavior resulting from a disability, the HAFC will delay the termination in order to determine if there is an accommodation which would negate the behavior resulting from the disability in accordance with Part 8 of Title 24.
- The HAFC will also consider whether the family disclosed the information to the HAFC under penalty of perjury when completing the certification packet.

If the HAFC seeks to terminate assistance because of illegal use or possession for personal use of a controlled substance, such use or possession must have occurred within *one year* before the date that the HAFC provides notice to the family of the HAFC determination to terminate assistance.

If the family intentionally willingly and knowingly *commits fraud* or is involved in any other illegal scheme with the owner, the HAFC will terminate assistance. *In making this determination*, the HAFC will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

15.5.1 Required Evidence

The HAFC will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

1. *Preponderance of evidence* will not be determined by the number of witnesses, but by the greater weight of all evidence.
2. *Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.
3. The HAFC will pursue fact-finding efforts as needed to obtain credible evidence.

15.5.2 Notice of Termination of Assistance

In any case where the HAFC decides to terminate assistance to the family, the HAFC must give the family written notice which states:

- a) The reason(s) for the proposed termination,
- b) The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- c) The date by which a request for an informal hearing must be received by the HAFC.

15.5.3 Termination of Assistance Based on Criminal Records

[24 5.903 (f)]

In all cases where a criminal record or sex offender registration information would result in termination of assistance, the HAFC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information and an opportunity to dispute the accuracy and relevance of the information before a termination action is taken.

The family will be given 10-business days from the date of the HAFC notice, to dispute the accuracy and relevance of the information. If the family does not contact the HAFC to dispute the information within that 10-business day period, the HAFC will proceed with the termination action.

15.5.4 Confidentiality of Criminal Records

Consistent with the limitations on disclosure of records, the HAFC has established and implemented a system of records management that ensures that any criminal record received by the HAFC from a law enforcement agency is:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HAFC action without institution of a challenge or final disposition of any such litigation.

All eviction and criminal background history is retained by the contracted provider. The HAFC will not print search results unless there is a need to due to an applicant's request for an Informal Review or as needed for review. The results of the HAFC's background check will be maintained in a secure and confidential database. A copy of the Consent for Release of Information along with the approval/denial status will be kept in the participant's file.

15.6 VIOLENCE AGAINST WOMEN ACT (VAWA)

Under the Violence Against Women Act 2013 (VAWA) statutes, the abuser's criminal activity directly related to abuse and beyond control of the victim **shall not be** grounds for termination. The legislation clarifies that the HAFC may terminate a VAWA victim if the individual is an actual and imminent threat to other tenants or the community. Also if the victim is evicted for unrelated criminal activity, this may be grounds for termination of the HCV assistance, provided the HAFC does not hold the victim to a more demanding standard than other program participants.

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or other household member claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HAFC will require the individual to provide a signed statement certifying that claim.

The required certification must be submitted to the HAFC within 14 business days after the HAFC request is received by the victim. If the individual does not submit the required certification within the required 14-business day period, the HAFC will proceed with termination of the family's assistance.

15.7 PROCEDURES FOR NON-CITIZENS

[24 CFR 5.514]

Termination due to Ineligible Immigrant Status: Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The HAFC must offer the family an opportunity for a hearing. (See "Eligibility for Admission"

chapter, Section on Citizenship/Eligible Immigration Status.)

Assistance *may not* be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information: When the HAFC has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the HAFC may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The HAFC will then verify eligible status, deny, terminate, or prorate as applicable.

The HAFC will terminate assistance based on the submission of false information or misrepresentations.

Procedure for Termination: If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the HAFC either after the INS appeal or in lieu of the INS appeal.

After the HAFC has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) [24 CFR 5.514, 5.516, 5.518].

15.8 MISSED APPOINTMENTS AND DEADLINES

[24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, certification and not miss appointments as needed for the HAFC to fulfill its responsibilities. A Notice of Termination of Assistance will be sent to families who are in non-compliance for:

- Verification Procedures
- Housing Quality Standards and Inspections
- Re-certifications
- Appeals

- Scheduled Appointments

Acceptable reasons for missing appointments or *failing to provide information* by deadlines are accepted for extenuating circumstances such as medical, family emergency or other reasons that may need to be approved by a supervisor or manager.

Procedure when Appointments are Missed or Information Not Provided

1. The family will be given an opportunity to comply before being issued a Notice of Termination of Assistance for breach of a family obligation.
2. The Notice of Termination may be rescinded for the following reasons:
 - If the family offers to correct the breached item(s) or cause within the time allowed to request a hearing and
 - If the family offers to cure and the family does not have a history of non-compliance, the notice will be rescinded.

See Chapter 12, “Failure to Respond to Notification to Recertify” and Chapter 10 “Annual HQS Inspections” for more information on HAFC policy when appointments are missed.

15.9 INFORMAL HEARINGS

[24 CFR 982.555]

This information is covered in Chapter 19, *Reviews, Hearings and Other Appeals*.

CHAPTER 16: FAMILY SELF-SUFFICIENCY (FSS) PROGRAM

(24 CFR 984.101 – 401)

16.1 INTRODUCTION

The FSS program encourages families to attain economic independence and self-sufficiency. Families receiving Housing Choice Voucher (HCV) rental assistance and participating in FSS are provided one-on-one case management services to identify career/education goals, build assets, increase earnings, and/or achieve homeownership. The objective of the FSS program is to assist low-income families in reducing/eliminating dependency on government assistance programs.

16.2 FAMILY ELIGIBILITY

[24 CFR 984.103]

Participation in the FSS program is on a voluntary basis for families receiving housing assistance through the HCV program administered by the HA.

16.3 PROGRAM COORDINATING COMMITTEE (PCC)

[24 CFR 984.202]

The HAFC collaborates with a program coordinating committee (PCC) consisting of representatives from the public and private sector. The PCC is responsible to assist the HAFC in developing the FSS Action Plan. (The FSS action plan is available on the FH website). Other responsibilities include partnering with community organizations to provide supportive services and community resources to assist FSS families in overcoming barriers to self-sufficiency. These include, but are not limited to:

- Childcare
- Education
- Transportation
- Counseling
- Employment readiness
- Vocational training
- Homeownership education

16.4 FSS FAMILY SELECTION PROCESS

[24 CFR 984.203]

The HAFC will open the FSS interest list as needed in order to maintain the minimum program size. When the interest list is open, families may use any of the following options to be placed on the interest list:

- Call the HAFC
- Submit an FSS Application in person or by mail

Families are contacted according to the date and time the family expressed an interest. Eligible families are mailed an invitation to attend a one-on-one FSS orientation with an FSS Coordinator. At the orientation the family is given a general overview of the program and details on the roles and responsibilities of FSS participants, as well as the role of the HAFC. A description of supportive services, escrow accounts, program policies, expectations, and requirements for successful completion of the program is provided. Families sign a Contract of Participation, Individual Training and Services Plan (ITSP) and complete the family profile. A needs assessment is conducted to develop the ITSP for achieving self-sufficiency.

Families who decide at the orientation not to participate in FSS will be removed from the FSS interest list.

16.5 DENIAL OF FSS PARTICIPATION

[24 CFR 984.303]

The HAFC may deny participation to families who:

- Owe money to the HAFC or any other Public Housing Authority (PHA)
- Failed to comply with the HCV program at any PHA
- Failed to comply with the FSS program at any PHA
- Have successfully graduated from the FSS program with any PHA and received a full escrow payout

16.6 CONTRACT OF PARTICIPATION

[24 CFR 984.303]

The designated Head-of-Household (HOH) must sign a Contract of Participation, which describes the rights and responsibilities of the FSS family and the HAFC. The effective date of the contract is the first month following the date of enrollment. The term limit is five (5) years.

16.6.1 Essential Components

The following information must be entered into the contract for it to be valid:

- Contract start and end date
- Annual income
- Earned income
- Family rent portion (TTP or 30 percent of Monthly Adjusted Income for vouchers)
- Participant's signature and date
- HAFC Representative signature and date

16.6.2 Contract Extensions

Contracts may be extended up to a maximum of two (2) additional years with the approval of the HAFC. A written request must include "good cause," e.g., an FSS family is unable to complete the ITSP goals due to circumstances beyond the family's control. Other examples of "good cause" include but are not limited to:

- Serious illness
- Involuntary loss of employment
- Death in the family
- Separation/divorce
- Physical/mental impairment, external economic factors or other excruciating circumstances beyond the participants control which will require additional time to change and/or complete education/career goals
- Pursuit to homeownership
- Pursuit to higher education

During an extension to the contract, the family continues to have FSS amounts credited to the escrow account in accordance with 24 CFR 984.304.

16.6.3 Termination of the Contract

[24 CFR 984.303(h)]

The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements. The contract of participation may be terminated before the expiration of the contract term, and any extension granted by the HAFC. The contract may be terminated for terms and conditions listed below:

- Failure of the FSS family to meet the obligations under the Contract of Participation without good cause
- Failure to comply with the Contract requirements because the family has moved outside the jurisdiction of the HAFC
- Such other act as is deemed inconsistent with the purpose of the FSS program

The Contract of Participation may also terminate due to:

- Mutual consent of the parties
- The family's withdrawal from the FSS program

16.6.4 Completion of the Contract

The Contract of Participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

- The FSS family has fulfilled all of its obligations under the contract and obtained suitable employment on or before the expiration of the contract term, including any extension thereof, or
- The thirty (30) percent of the FSS family's monthly adjusted income is equal to or exceeds the published Fair Market Rent (FMR) for the size of the unit for which the FSS family qualifies based on HAFC occupancy standards

16.6.5 Individual Training and Services Plan (ITSP)

[24 CFR 984.303]

The ITSP plan identifies the participants' job-related final goal, as well as interim goals. Timelines for completion are established for each goal. The final goal must include suitable full-time employment, which also demonstrates advancement in education/employment/vocational training. FSS coordinators monitor the progress of each FSS family.

The ITSP shall include:

- The resources and services to be provided by the HAFC

- Targeted completion dates for each individual interim goal
- Referrals for career, education, and job-related activities
- Final goal to obtain suitable full-time employment
- Interim goal must include the requirement to be off welfare assistance for twelve (12) consecutive months prior to the completion/expiration of the Contract, including any extensions. [24 CFR 984.303(b)(2)]
- Participant's signature and date
- HAFC Representative signature and date

The participant may change the goals and services in the ITSP by submitting a written request for the change. The final employment goal can be changed only if: 1) The new goal demonstrates full-time suitable employment and supports FSS program goals for self-sufficiency; and 2) the interim goals align with the final goal. The ITSP goals may be revised no more than three (3) times during the five-year contract period or any extension thereof.

16.6.6 Change in Head of Household

The FSS participant may designate a new HOH if the current HOH is unable to complete their obligations under the Contract of Participation. The request must be submitted to the HAFC in writing. The new HOH must sign and complete a new contract of participation and a new ITSP for goals and services. The start and end date of the new contract will remain the same as the original contract of participation.

16.6.7 Household with more than one ITSP

The FSS family may have more than one ITSP in a single household. Although, other adults are eligible to enter into their own individual ITSP, the Contract of Participation remains with the head of household and each adult family member with an ITSP must complete the activities in the ITSP. The additional adults will not be eligible for an escrow pay out.

16.7 FSS ESCROW ACCOUNTS

[24 CFR 984.305]

As an incentive for families to join the FSS program and as a strategy to assist families in building assets, HUD regulations allow an escrow account to be established on behalf of eligible families. Eligibility for an escrow account is determined according to a HUD-defined formula using the family's earned income data [24 CFR 982.505].

As the family's earned income increases and the household rent increases, the HAFC calculates escrow eligibility according to the HUD formula to determine the amount of escrow credits. Escrow funds are held in the participant's name until the participant has met the requirements for final escrow disbursement.

Under the requirements for escrow disbursement, the FSS participant must have:

- Completed the goals in the ITSP
- Obtained suitable employment. The HAFC has determined suitable employment for the HOH as year round full-time sustainable employment to be not less than thirty (30) hours per week **and** the gross annual income is equal to or exceeds the state minimum wage multiplied by nineteen hundred and fifty (1950) hours. Seasonal employment does not meet the HAFC standards for suitable employment unless the HOH is employed all year round with multiple seasonal jobs.
- Certified that all members of the household have not received welfare assistance for twelve (12) consecutive months prior to the expiration of the term of the contract, including any extension thereof.
- Achieved an annual anticipated income whereby thirty (30) percent of the family's monthly adjusted income is equal to or exceeds the published FMR for the size of unit which the FSS family qualifies based on the HAFC's occupancy standards.

The HAFC cannot restrict a family's use of FSS escrow account funds withdrawn by the family unless the funds are withdrawn to aid in the completion of an interim goal.

16.7.1 Annual FSS Escrow Statement

[24 CFR 984.305(3)(i)(ii)(iii)(iv)(v)]

The HAFC will mail an escrow statement to all FSS family at least once annually. The statement will include:

- The balance at the beginning of the reporting period;
- The amount of the family's rent payment that was credited to the FSS account during the reporting period;
- Any deductions made from the account for amounts due the PHA;
- The amount of interest earned during the year, and
- The total amount in the account at the end of the reporting period.

16.7.2 Interim Disbursement

[24 CFR 984.305(c)(2)(ii)]

The HAFC may disburse a portion of the funds from the family's escrow account during the Contract of Participation for completing an interim goal, if the funds are used for purposes consistent with the Contract of Participation, such as, but not limited to:

- School tuition
- Business start-up expenses
- A vehicle if public transportation is unavailable or inaccessible to the family
- Job training expenses
- Down payment for a home

16.7.3 Forfeiture of Escrow Account

[24 CFR 984.305(f)(i)(ii)(2)(ii)]

The FSS escrow account may be forfeited if the family fails to comply with the FSS program, and any one of the following is true:

- The Contract of Participation is terminated, according to 24 CFR 984.303 (e),(h)
- The Contract of Participation is declared null and void
- The family has not met its responsibilities as stated in the Contract of Participation
- The HOH has failed to obtain suitable employment on or before the expiration of the contract term, including any extension thereof
- An intergenerational family, whose HOH becomes independent of welfare assistance, however another family member (or other members) of another household in the same family continue to receive Temporary Assistance for Needy Families (TANF). Note: If the family is receiving a TANF child-only grant, or TANF non-needy grant as stated in HUD Notice PIH 2007-20, forfeiture of the escrow account will not be considered.
- The head of the family dies and the remaining members of the family choose not to continue participating in the program, and the contract obligations were not met by the HOH prior to his/her departure.

In the HCV program, FSS escrow account funds forfeited by the family will be treated as program receipts for payment of program expenses under the PHA

budget for the HCV program, and shall be used in accordance with HUD requirements governing the use of program receipts.

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16.7.4 Succession to FSS Account

[24 CFR 984.305(d)]

If the FSS HOH no longer resides with other family members in the assisted unit, the other remaining adult members of the FSS family have the right to designate another adult family member to receive the funds. The HAFC must be consulted and must approve this change. The request for change of HOH must be submitted in writing, and must include the following:

- The name of the new designated FSS HOH
- The signature of the new FSS HOH
- The effective date of the change

An addendum to the FSS Contract must include the effective date of change and must be signed by the new head of household and the HAFC representative.

16.8 GRIEVANCE

The FSS participant will be notified via mail of decisions affecting the family's participation in the FSS program. The notification will include the reasons for the decision and the HAFC policies and HUD regulations supporting it. If the participant disagrees with the decision, an appeal may be made within ten (10) business days of the notification (for any issues which are grievable per 24 CFR 982.555(a)(1) and 984.303(i)). The appeal must be submitted in writing to the HAFC for review. The family will be notified in writing of the due process, including the date set for an informal hearing.

16.9 PORTABILITY

[24 CFR 984.306]

Relocating FSS Family

After the first twelve (12) months of the FSS Contract of Participation, the FSS family may move outside the Initial PHA jurisdiction under the portability procedures in accordance to CFR 982.353.

16.9.1 Port-In Families

The relocating FSS family may participate in HAFC's FSS program if there are available FSS slots. The relocating family must submit a written request to the HAFC for continued participation in the FSS program, prior to the expiration of the FSS Contract of Participation and/or expiration of the Housing Choice Voucher. The HAFC is not obligated to enroll the relocating family in the FSS

program. If the family is accepted in the FSS program, the Receiving PHA will enter into a new contract of participation with the FSS family for the term remaining on the contract from the Initial PHA. The Initial PHA will terminate its contract or participation with the family.

16.9.2 Port-Out Families

The FSS family porting out of the HAFC may participate in the receiving PHA FSS program, if the receiving PHA has a FSS program. The receiving PHA is not obligated to enroll the family in the FSS program. If the receiving PHA enrolls the family in the FSS program, the escrow account will be transferred to the receiving PHA.

CHAPTER 17: CONTINUUM OF CARE

17.1 INTRODUCTION

The HAFC receives funding for Continuum of Care Program (CoC) program tenant based rental assistance to serve the disabled and homeless including the chronically homeless population. **The CoC program policies and procedures are the same as that of the Housing Choice Voucher (HCV) program except as otherwise noted. If there is a conflict between program regulations and the Administrative Plan, the program regulations have precedence.**

The HAFC provides CoC assistance under the Tenant-based Rental Assistance (TRA) of 24 CFR 578. The CoC **is not a Section 8/HCV program**. The CoC program is authorized by Title IV; Subtitle C, of the Steward B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 1403-11407b) as amended by Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of care Program (HEARTH CoC Program) (42 U.S.C 11381 - 11389) which is designed to provide rental assistance and supportive services for homeless individuals and families with disabilities. The program primarily targets assistance to homeless individuals/families who have been diagnosed with the following:

- Mental illness,
- Developmental Disability,
- Chronic problems with alcohol, drugs, or both, or
- AIDS and related diseases.

17.2 TERM OF THE PROGRAM

[24 CFR 578.19; 578.33(c)]

Assistance is provided for a term of one (1) year or for as long as there is a continuum of funding available for this program. The program has limitations on bedroom sizes (see *Certificate Bedroom Size Issued* in this Chapter) and assistance will be issued accordingly.

17.3 BOARD OF COMMISSIONERS

[24 CFR 578.19]

The HAFC receives funding for the CoC program as a member of the Fresno-Madera Continuum of Care (CoC). The Fresno-Madera CoC provides for the consultation and participation of not less than one homeless or formally homeless individual to serve on the board of directors.

In addition, the HAFC has resident and participant commissioners on the HAFC Board. These individuals have the authority to vote on policy-making decisions.

17.4 OUTREACH

[24 CFR 578.17(c)]

The HAFC will make every effort to partner with community-based organizations to provide effective outreach for hard-to-reach populations. Outreach should be directed to those who are in an emergency shelter or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human being (e.g. person living in care, streets, and parks). Participate in outreach; coordinated entry system.

Outreach to the owners will be provided through participation in apartment association meetings. For more information on outreach please refer to Chapter 1 of this Plan.

17.5 SERVICE MATCH DOCUMENTS

[24 CFR 578.73]

Under HUD regulations for CoC program, the HAFC is required to have a 25% cash or in-kind match for all grant funding excluding leasing costs.

17.6 HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS)

The HAFC participates in the HMIS program. HMIS is a computerized data collection application designed to capture client-level information on the characteristics and service needs of adults and children experiencing homelessness over time. HMIS is designed to aggregate client-level data to generate an unduplicated count of clients served within a community's system of homeless services, often referred to as the CoC.

17.7 DEFINITIONS

Some key definitions for this program are listed below. Additional definitions can be found in 24 CFR 578.3

Literally Homeless – Individual/family who is sleeping in places not meant for human habitation, such as cars, parks, sidewalks, and abandoned or condemned building; or is sleeping in an emergency shelter. This may include an individual/family that ordinarily sleeps in one of the above places but is spending

a short time (90 days or less) in a hospital or other institution. Individual/family who is fleeing or attempting to flee domestic violence.

Chronically Homeless – An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for twelve (12) months or more OR has had at least four (4) episodes of homelessness in the past three (3) years that equal twelve (12) months or more. To be considered chronically homeless, a person must have been on the streets, safe haven or in an emergency shelter (i.e. not in transitional housing) during these stays.

Persons with disabilities – a household composed of one or more persons at least one of whom is an adult who has a disability.

1. A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such nature that such ability could be improved by more suitable housing conditions.

2. A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:

- (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) Is manifested before the person attains age 22;
- (iii) Is likely to continue indefinitely;
- (iv) Results in substantial functional limitations in three or more of the following areas of major life activity;
 - (A) Self-care
 - (B) Receptive and expressive language;
 - (C) Learning;
 - (D) Mobility;
 - (E) Self-direction;
 - (F) Capacity for independent living; and
 - (G) Economic self-sufficiency; and
 - (H) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

17.8 REFERRAL PROCESS

Eligible individuals/families are referred to the CoC Programs via the Coordinated Entry System (CES) upon request from the HAFC as and when the TRA is available.

17.9 INCOME LIMITS

Eligible individuals/families must be at 50% of the area median income or lower to participate in the CoC program.

17.10 ELIGIBILITY

Applicants must meet HUD's eligibility requirements for the CoC program to qualify for rental assistance. In order to determine final eligibility, the HAFC may verify all information submitted by applicants.

17.11 VERIFICATION PROCEDURES

Since HUD requires that factors of eligibility must be verified, applicants and program participants are required to provide proof of their statements whenever required by the HA. The CoC program may require additional documents when verifying program eligibility. For example:

- Homeless Condition Form: Must be provided for all individual/families referred to the HA for the CoC program.
- Disability Verification Form: Must be provided for all individuals claiming a disability, especially a disability that is cited as a qualifying factor for the CoC program. Written determinations must be made by a psychiatric or medical professional trained to make such determination.

17.12 DENIAL OF PARTICIPATION

If a family has previously participated in any federally subsidized program and violated a family obligation and was terminated, the family may be denied future participation for a period of three (3) years.

Families referred and their contracted Community-Based Organization(s) (CBO) will be sent a denial letter and referred to the CBO if there are any further questions.

17.13 CRIMINAL BACKGROUND CHECKS

CoC applicants will not be required to undergo the criminal background check described in Chapter 4 of this Plan, with one exception. A criminal background check *will* be performed for head-of household and all adult family members, live-in aides eighteen years of age and older, to determine if client or family member is subject to a lifetime registration requirement under a State sex offender registration [24 CFR 982.553 (a) (2)].

17.14 BRIEFING SESSIONS

Once determined eligible, the family is required to attend a briefing session (see Chapter 8). The family will enter into a CoC Contract of Participation which explains that loss of program assistance may occur if any member of the family violates the terms. A Request for Tenancy Approval (RFTA) is also provided at the briefing session.

CoC uses Fair Market Rents published by HUD to determine the contract rent.

17.15 ISSUANCE OF CERTIFICATE

At the completion of the initial briefing and the signing of the CoC Contract of Participation, a CoC certificate will be issued. The eligible applicant must locate a unit within 120 days. If an extension is needed, one may be requested. The request will be evaluated and a decision made based upon the same policy outlined in the voucher issuance section of Chapter 8 of this administrative plan.

17.16 RENTAL ASSISTANCE PAYMENT (RAP) CONTRACTS

The owner must sign a (RAP) Contract for the CoC program, and must comply with its provisions in addition to the requirements of the lease agreement.

17.17 TENANT RENT PORTION UNDER COC

CoC program funds are contracted based on 100% of the Fair Market Rents published by HUD. Tenant rental portions are limited to 30% of the participant's adjusted monthly income.

To calculate tenant's rent portion the following steps should be taken:

1. Calculate each of the following:
 - a) 10% of the gross income.
 - b) Then calculate 30% of the adjusted monthly income, and
 - c) Welfare rent.
2. Subtract the greatest of the three from the utility allowance (if the utility

allowance is not included in the rent) to obtain the tenant rent portion.
3. To arrive at the RAP, subtract the tenant rent portion from the contract rent.

For more information on determining adjusted income, please refer to Chapter 6 (Factors Related to Total Tenant Payment Determination).

Actual amount of General Relief income will be calculated in determining the total tenant payment for CoC families receiving general relief income.

The following is not applicable to the CoC program:

- Earned Income Disallowance
- Minimum Rent (\$50)
- Zero Income 90 day review
- Monthly Living Expense worksheet

17.18 CERTIFICATE BEDROOM SIZE ISSUED (COC SUBSIDY STANDARDS)

Under the CoC program, the client will be eligible for a bedroom size based upon family composition and will be issued as follows:

- Head-of-Household or head-of-household and spouse—One bedroom
- All other family members—Two Persons for each additional bedroom (not to exceed a 3 bedroom unit)
- Caregivers and Live-in Aides—One additional bedroom (not to exceed a 3 bedroom unit)

Bedroom sizes are limited based on the allocation specified in the CoC grant agreement.

17.19 RE-EXAMINATIONS/INTERIMS

[24 CFR 578.77]

The HAFC is required to process annual re-examinations. In cases where a family experiences a change in household composition and/or income between annual re-examination, the HAFC will process an interim re-examination. The family is required to report all changes in household composition and/or income to the HAFC within 10 calendar days of the occurrence. For more information regarding causes for processing annual/interim reexaminations and the requirements for competing annual/interim re-examinations, please refer to Chapter 12.

17.20 HOUSING QUALITY STANDARDS

[24 CFR 578.75(b)]

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant based programs. HQS standards are required both at initial occupancy and annually during the term of the RAP contract. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and RAP Contract. For more information on HQS refer to chapter 10 with the exception that 982.401 (j) does not apply. However, Part 35 subparts A, B, K, and R of this title does apply.

17.21 RENT REASONABLENESS

[24 CFR 578.51(d)]

It is the HAFC's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. The HAFC will not approve the lease or execute RAP contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. The HAFC will determine rent reasonableness at initial lease-up, before any increase in rent to owner and at other times described in Chapter 12.

17.22 LIMITATIONS ON COC ASSISTANCE

17.22.1 *Section 8 Homeownership Program*

The Section 8 homeownership program outlined in the Administrative Plan does not apply to the CoC program client.

17.22.2 *Family Self-Sufficiency (FSS)*

The CoC client is not eligible for the FSS program.

17.22.3 *Portability*

CoC clients have no portability rights. COC clients must continue to live within the HAFC's jurisdiction for as long as they continue to participate in this program.

17.22.4 *Retention of assistance after death, incarceration, or institutionalization for more than 90 days of qualifying member.*

[24 CFR 578.75(1)(i)]

Members of any household who were living in an assisted unit at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization.

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17.23 TRANSFERS BY THE HAFC

The HAFC may elect to transfer participants from one CoC TRA to another CoC TRA grant, if the HAFC determines such transfer is necessary for grants management reasons, (e.g. to increase or decrease spending rates in a given grant). Such transfers do not involve a physical move by the participant.

The HAFC shall document the date of the transfer and the reason for the transfer in the participant's file.

17.24 TERMINATIONS RELATED TO THE COC PROGRAM

17.24.1 When COC Family Violates Participation Agreement

Housing assistance may be terminated if a family violates specific CoC program Participant-Service Provider Agreement, Contract of Participation and/or the family obligation.

17.24.2 Requests from Outside Agency to Terminate Housing Assistance under CoC

CBO's and/or other government units or departments currently contracted by the HAFC that provide supportive services may request termination of housing assistance for a program participant who is in violation of the CoC program requirements, Participant-Service Provider Agreement, Contract of Participation, and/or conditions of occupancy.

CHAPTER 18: OWNER OR FAMILY DEBTS TO THE HAFC

18.1 INTRODUCTION

This chapter describes the HAFC's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HAFC's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HAFC's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

The HAFC will sometimes take other or additional actions than debt recovery when program fraud or abuse occurs. For more information, see Chapter 23 on Program Integrity.

18.2 TYPES OF DEBT OWED TO THE HAFC

Families are required to repay the HAFC for amounts paid to an owner on behalf of the family for unpaid rent.

When repayment is required due to a determination of the family's underpayment of rent as a result of unreported or underreported income, the calculation of underpayment will be made retroactively.

Owners are required to repay the HAFC to recover overpayments, abatements or other reduction of housing assistance payments. (24 CFR 982.453(b).

18.2.1 Program Fraud

Families who owe money to the HAFC due to program fraud are subject to the policies described in Chapter 23.

If a family owes an amount which equals or exceeds \$10,000.00 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the HAFC will refer the case for criminal prosecution.

18.3 COLLECTION METHODS

When families or owners owe money to the HAFC, the HAFC will make every effort to collect it. The HAFC will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Reductions in HAP to owner

- Repayment agreements
- Collection agencies
- Civil suits
- Franchise Tax Board (FTB) for interagency intercept collections

18.4 REPAYMENT AGREEMENT FOR FAMILIES

[24 CFR 792.103, 982.552 (c) (6-8)]

If a family owes money to the HAFC for claims paid to an owner, the HAFC will review the circumstances resulting in the overpayment and decide whether the family must pay the full amount or enter into a repayment agreement.

If a repayment agreement is to be entered into, the HAFC will require that the family pay an initial 25% lump sum with the remaining balance to be paid in equal payments over a period of time not to exceed 12 months. The maximum amount for which the HAFC will enter into a payment agreement with a family is \$10,000.

A repayment agreement as used in this Plan is a document entered into between the HAFC and a person who owes a debt to the HAFC. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the HAFC upon default of the agreement.

The HAFC may offer a repayment agreement to the tenant or owner, which acknowledges a debt, in a specific amount and agreement to repay the amount due within one (1) year of the agreement date.

The maximum amount for which the HAFC will enter into a payment agreement with a family is \$10,000.

Payment plans beyond the 1-year agreement may be considered in cases of family hardship and if requested with reasonable notice from the family with verification of the hardship, and the approval of the supervisor.

18.4.1 Guidelines for Repayment Agreements

[24 CFR 982.552 (c) (8)]

Repayment agreements will be executed between the HAFC and the head of household and spouse.

Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family with verification of the hardship,

and the approval of the supervisor.

18.4.2 Payment Schedule for Monies Owed to the HAFC

The repayment schedule will be set up on a case-by-case basis, depending upon the family's income; however, initial payment and all subsequent payments must be set up so that the monies will be paid in full within one year.

18.4.3 Additional Monies Owed

If the family already has a Repayment Agreement in place and incurs an additional debt to the HAFC, the HAFC will not enter into more than one repayment agreement with the family. Extenuating circumstances may be referred to a supervisor.

18.4.4 Late Payments

If a payment is not received by the close of business, five calendar days after the due date. It is considered late and the HAFC may:

- Require the family to pay the balance in full
- Pursue civil collection of the balance due
- Terminate the housing assistance
- Grant an extension of 30 calendar days (requires supervisory approval)

18.4.5 Requests to Move and Balance is Still Owed

If the family requests a move to another unit and is in arrears on a repayment agreement for money owed to the HAFC, the request for a voucher to move will be denied, unless the balance is paid in full.

However, if the need to move is due to one of the following reasons, (or for another reason which is approved by a supervisor), the request to move may be approved:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A move from the premises is required as a reasonable accommodation

18.5 OWNER DEBTS TO THE HAFC

[24 CFR 982.453(b)]

If the HAFC determines that the owner has retained Housing Assistance Payments for which he is not entitled, the HAFC may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract.

If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the HAFC will take one or more of the following actions:

- Require the owner to pay the amount in full within 30 calendar days
- Enter into a Repayment agreement with the owner for the amount owed
- Pursue collections through the local court system
- Restrict the owner from future participation at HAFC discretion.

18.6 RECORD KEEPING AND REPORTING REQUIRED WITH FRAUD RECOVERIES

[24 CFR 792.204]

HUD regulations (24 CFR 792.204) encourage public housing agencies to investigate and pursue instances of tenant and owner fraud and abuse in the operation of the Section 8 housing assistance programs. According to the criteria explained in part 792, the HAFC will be eligible to retain a portion of program fraud recoveries.

To permit HUD to audit amounts retained under this part, the HAFC will maintain all records required by HUD, including:

- Amounts recovered on any judgment or repayment agreement;
- The nature of the judgment or repayment agreement; and
- The amount of the legal fees and expenses incurred in obtaining the judgment or repayment agreement and recovery.

CHAPTER 19: REVIEWS, HEARINGS AND OTHER APPEALS

19.1 INTRODUCTION

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the HAFC. This Chapter describes the policies, procedures and standards to be used when families disagree with an HAFC decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the HAFC to ensure that all families have the benefit of all protections due to them under the law.

This Chapter also addresses the Housing Choice Department's policy on handling discrimination complaints.

19.2 DISCRIMINATION COMPLAINTS

Should an applicant or participant contact the Housing Choice Voucher Department with a claim that a department employee engaged in a discriminatory action in carrying out program rules, an appointment will be made with a supervisor. The supervisor will question the client in order to learn the exact nature of the complaint.

All processes will be assessed as to whether correct policy was carried out.

If the process was conducted correctly, regulatory requirements will be explained to the client. If upon assessment it is found that processes need to be streamlined, the process will be reviewed and improvements will be made.

If there was an oversight on the part of the Assisted Housing Division (AHD), the error will be corrected and the family will be accommodated accordingly to federal guidelines.

If upon assessment a personnel issue should arise, progressive discipline will be instituted and the family would again be accommodated.

In the event an applicant or participant brings some other discrimination issue to the attention of the AHD, this will be handled by a staff person at the supervisory level or above. A referral to the Fair Housing Council will be made when appropriate; but not before researching any issue which is within the scope of authority of the HAFC and applying a suitable remedy.

19.2.1 Other Complaints to the HAFC

The HAFC will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HAFC may

require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

All complaints from families, owners, and the general public regarding disagreement with an action or inaction of the HAFC will be referred to a supervisor.

If a staff person reports an owner or family is either violating or not complying with program rules, the matter will be referred to a supervisor.

19.3 INFORMAL REVIEW PROCEDURES FOR APPLICANTS

[24 CFR 982.54(d)(12), 982.554]

The HAFC will give an applicant an opportunity for an informal review of the HAFC decision denying assistance to the applicant. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

19.3.1 Notice to Applicant

When the HAFC determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible
- The procedure for requesting a review if the applicant does not agree with the decision
- The time limit for requesting a review

19.3.2 When Informal Review is Required

The HAFC must provide applicants with the opportunity for an Informal Review of decisions denying:

- Listing on the HAFC's waiting list
- Issuance of a Voucher
- Participation in the program

19.3.3 When Informal Review is Not Required

Informal Reviews are not required for established policies and procedures and HAFC determinations such as:

1. Discretionary administrative determinations by the HAFC
2. General policy issues or class grievances
3. A determination of the family unit size under the HAFC subsidy standards
4. Refusal to extend or suspend a Voucher

5. Disapproval of tenancy
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition

19.3.4 Procedure for Review

The procedures for informal review will include the following:

- A request for an Informal Review must be received in writing by the close of the business day, no later than 10 business days from the date of the HAFC's notification of denial of assistance.
- The informal review will be scheduled within 30 business days from the date the request is received.
- The applicant will be given the option of presenting oral or written objections to the decision.
- Both the HAFC and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.
- The review may be conducted by mail and/or telephone if acceptable to both parties.
- A Notice of the Review findings will be provided in writing to the applicant within 10 business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

19.3.5 Review Officer

The hearing will be conducted by any person or persons designated by the HAFC, other than a person who made or approved the decision under review, or a subordinate of this person.

19.3.6 Restrictions on Assistance for Non-Citizens

This type of denial is covered in *Hearing and Appeal Provisions for Non-Citizens* of this Chapter.

19.4 INFORMAL HEARING PROCEDURES

[24 CFR 982.555(a-g), 982.54(d)(13)]

19.4.1 When Hearing is Required

The HAFC will provide participants with the opportunity for an informal hearing to consider whether the following HAFC decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and HAFC policies:

1. A determination of the family's annual or adjusted income and use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance for tenant-paid utilities from the HAFC utility allowance schedule.
3. A determination of the family unit size determination under HAFC subsidy standards.
4. A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HAFC's subsidy standards, or the HAFC determination to deny the family's request for exception from the standards.
5. A determination to terminate assistance because a participant family has been absent from the assisted unit for longer than the maximum period permitted under the HAFC policy (see Chapter 6) and HUD rules.
6. A determination to terminate assistance for a participant family because of family's action or failure to act.
7. Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.
8. Determination not to reduce a family's portion of rent because of 1) family's noncompliance with welfare requirements or 2) welfare fraud.
9. A determination not to approve a family's request for a reasonable accommodation, as required in providing grievance rights under Section 504 of the Rehabilitation Act of 1973.

The HAFC will always provide the opportunity for an informal hearing before termination of assistance.

19.4.2 When Hearing is Not Required

Informal Hearings are not required for established policies and procedures and HAFC determinations such as:

- Discretionary administrative determinations by the HAFC.
- General policy issues or class grievances.
- Establishment of the HAFC schedule of utility allowances for families in the program.
- An HAFC determination not to approve an extension or suspension of a voucher term.
- An HAFC determination not to approve a unit or tenancy.
- An HAFC determination that an assisted unit is not in compliance with HQS. (However, the HAFC must provide a hearing for a family breach of HQS because that is a family obligation determination).
- An HAFC determination that the unit is not in accordance with HQS because of the family size.
- An HAFC determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

19.4.3 Notice to Family

In cases in which the family is entitled to an informal hearing as described in 19.4.1 above, the HAFC will notify the family that the family may ask for an explanation of the basis of the HAFC determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

This written notice will:

1. Include a brief statement of the reasons for the decision
2. State the family has a right to an explanation of the basis for the HAFC's decision
3. State that if the family does not agree with the decision, the family may request an informal hearing on the decision
4. State the deadline for the family to request an informal hearing
5. Indicate to whom the hearing request should be addressed

19.4.4 Scheduling an Informal Hearing

[24 CFR 982.555(d)]

When an informal hearing is required, the HAFC must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

- A request for an informal hearing must be made in writing and delivered to the HAFC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HAFC's

decision or notice to terminate assistance.

- The HAFC will send written notice of the informal hearing date to the family within 10 business days of the family's request. The written notice will also include the request for the family to make any rebuttal evidence available to the HAFC within 10 business days prior to the hearing date.
- The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HAFC may request documentation of the "good cause" prior to rescheduling the hearing.
- If the family does not appear at the scheduled time, and did not make prior arrangements to reschedule the hearing, the decision made by HAFC upon which the appeal has been requested, will stand.
- The family has a 15-minute grace period to show up for the appointment. If family does not show, HAFC decision will be upheld. The HAFC will take into consideration extenuating circumstances.

19.4.5 Notification of Hearing

It is the HAFC's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the HAFC will ensure that applicants and participants receive all of the protections and rights afforded by the law and the regulations.

- When the HAFC receives a request for an informal hearing, a hearing shall be scheduled within 30 business days. The notification of hearing will contain the time, date and place of the hearing, and the family's right to bring evidence, witnesses, legal or other representation at the family's expense
- Upon request, copies of the documents or evidence in the possession of the HAFC upon which the HAFC based the proposed action will be made available to the family for review no later than 5 business days before the hearing date. Arrangements other than mailing may be made with the family if the evidence is of a confidential nature (e.g. criminal records).

19.4.6 The HAFC's Hearing Procedures

The HAFC and participants will adhere to the following procedures:

1. Discovery

Before the hearing the family will be given the opportunity to examine any HAFC documents that are directly relevant to the hearing. The family will be advised regarding how they may view this information. Any documents not provided by the HAFC to the family as part of discovery, cannot be later introduced by the HAFC at the hearing.

The HAFC will give the family the opportunity to share any documents of its choice which are relevant to the hearing with the HAFC prior to the hearing. The HAFC will be allowed to copy any such document at the HAFC's expense. If the family does not make the document(s) available to the HAFC prior to the hearing, the family may not rely on the document(s) at the hearing.

2. Representation of the Family

At its own expense the family may be represented by a lawyer or other representative.

3. Hearing Officer

The hearing will be conducted by any person or persons designated by the HAFC, other than a person who made or approved the decision under review or a subordinate of this person.

The person who conducts the hearing will regulate the conduct of the hearing in accordance with HAFC hearing procedures.

4. Evidence

The HAFC will produce an audio recording of the informal hearing. If the family wishes to have a copy of the recording such a request must be made 10 business days prior to the hearing date.

The HAFC and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. If a witness is not able to attend the hearing, the HAFC will allow a sworn declaration under penalty of perjury (does not require notarization) to be provided in place of the witness.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. No documents may be

presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" include records and regulations.

The Hearing Officer will determine whether the action, inaction or decision of the HAFC is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing.

If the Hearing Officer determines that additional evidence is needed prior to making the decision, the Hearing Officer may set a date to reconvene the hearing once the information is received so the family may review the additional evidence and respond to it.

5. Family Rights

- To present written or oral objections to the HAFC's determination;
- To present any information or witnesses pertinent to the issue of the hearing;
- To request that a HAFC staff be available or present at the hearing to answer questions pertinent to the case; and
- If a family wishes to request an audio recording of the hearing, such request must be made 10 business days prior to the hearing date. The family and HAFC have the right to have the hearing recorded by audiotape, at the requesting party's expense.

6. HAFC Rights

In addition to other rights contained in this Chapter, the HAFC has the right to:

- Be notified if the family intends to be represented by legal counsel, advocate, or another party
- Have its attorney present
- Have staff persons and other witnesses present who are familiar with the case.

7. Issuance of Decision

The person who conducts the hearing must issue a written decision within 10 business days. Factual determination relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the HAFC and the family and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed; and
- Documentation of the calculation of monies owed;

The date the decision goes into effect is determined by HAFC.

8. Effect of the Decision

The HAFC is not bound by a hearing decision:

- Which concern matters in which the HAFC is not required to provide an opportunity for a hearing
- Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing under HAFC procedures.

If the HAFC determines that it is not bound by a hearing decision, the HAFC will notify the family in writing within 10 business days and the reason for the determination.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the HAFC shall take effect and another hearing will not be granted.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

9. Appellate Review

If the family does not agree with the Hearing Officer's decision, the family may request an appellate level review by the Executive Director or his designee.

19.5 HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS

[24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HAFC hearing is pending, but

assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HAFC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

19.5.1 Notice of Denial or Termination of Assistance

[24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for pro-ration of assistance if at least one family member is a citizen or eligible immigrant.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HAFC either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

19.5.2 USCIS Appeal Process

[24 CFR 5.514(e)]

When the HAFC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HAFC must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the HAFC with a copy of the written request for appeal and the proof of mailing.

The HAFC will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results. The family must provide the HAFC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the HAFC, of its decision. When the USCIS notifies the HAFC of the decision, the HAFC must notify the family of its right to request an informal hearing.

The HAFC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

19.5.3 Informal Hearing Procedures for Applicants

[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HAFC provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HAFC notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The HAFC must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine in advance of the hearing, any documents in the possession of the HAFC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing. The HAFC's policy regarding this right of discovery, which pertains to both the family and to the HAFC, is described in *The HAFC's Hearing Procedures, Discovery, of this chapter*.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the HAFC, and to confront and cross-examine all witnesses on whose testimony or information the HAFC relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the HAFC, as may be agreed upon by the two parties.

Recording of the Hearing

The HAFC will produce an audio recording of the informal hearing. If the family wishes to have a copy of the recording such a request must be made 10 business days prior to the hearing date.

Hearing Decision

The HAFC must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

19.5.4 Informal Hearing Procedures for Residents

[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HAFC provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HAFC notice of termination, or within 30 days of receipt of the USCIS appeal decision.

19.5.5 Retention of Documents

[24 CFR 5.514(h)]

The HAFC must retain for a minimum of 5 years the following documents that may have been submitted to the HAFC by the family, or provided to the HAFC as part of the USCIS appeal or the HAFC informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing

CHAPTER 20: LIMITED ENGLISH PROFICIENCY (LEP)

20.1 INTRODUCTION

In accordance with Executive Order 13166, the HAFC will provide meaningful access to its programs and activities by persons with Limited English Proficiency (LEP). This chapter describes how the HAFC will undertake reasonable efforts to provide or arrange free language assistance for its LEP participants and applicants to the assisted housing programs as well as the general public.

See also Section 1.14 of this Plan, "When Translation Services Are Needed".

20.2 MEANINGFUL ACCESS & THE FOUR-FACTOR ANALYSIS

Meaningful access is free language assistance in accordance with federal guidelines. The HAFC will assess and update the following four-factor analysis as needed, including but not limited to:

- The number or proportion of LEP persons eligible to be served or likely to be served by the HAFC.
- The frequency with which LEP persons using a particular language come into contact with the HAFC.
- The nature and importance of the HAFC program, activity or service to the person's life.
- The HAFC's resources and the cost of providing meaningful access.

20.3 LANGUAGE ASSISTANCE

The following language assistance policies will apply:

- A person who does not speak English as their primary language AND who has a limited ability to read, write, speak or understand English may be a Limited English Proficient (LEP) person and may be entitled to language assistance with respect to HAFC programs and activities.
- Language assistance includes interpretation, which means oral or spoken transfer of a message from one language into another language; and/or translation, which means the written transfer of a message from one language into another language. The HAFC will determine when interpretation and/or translation services are needed and are reasonable based upon the four-factor analysis.
- HAFC staff will take reasonable steps to provide language assistance to LEP clients who have difficulty communicating in English. Should a client ask for language assistance and the Housing Authority determines that: a)

the client is an LEP person and b) such assistance is necessary to provide meaningful access, the HAFC will make reasonable efforts to provide free language assistance. The Housing Authority will provide the language assistance in the LEP client's preferred language upon request.

The HAFC will periodically assess client needs for language assistance based on the frequency of requests for interpreters and/or translation, as well as the literacy skills of clients.

20.4 TRANSLATION OF DOCUMENTS

The HAFC will consider the following factors in determining whether a document requires translation:

- Whether the document meets the threshold of a "vital document". Per the HUD guidance, "vital documents" are those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically. For further details see the HAFC's Language Assistance Plan (LAP).
- The costs and benefits of translating documents for potential LEP groups, the barriers to meaningful translation or interpretation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate in an LEP group and other relevant factors. The HAFC will undertake this examination when an eligible LEP group constitutes 5 percent of an eligible client group (for example, 5 percent of households living in HAFC housing developments) or 1,000 persons, whichever is less.

In consideration of the above, the HAFC provides translations of the following assisted public housing "vital documents":

- Application
- Outreach activities
- Voucher
- Family Obligations
- Lease Addendum
- Termination letters

As the HAFC continues to translate further assisted public housing program "vital documents", this list will be updated on an annual basis.

As opportunities arise, the HAFC may work with other local Public Housing Authorities (PHAs) to share the costs of translating common documents.

As HUD continues to translate standard housing documents in multiple languages, the HAFC will replace its translated versions with the official HUD

versions. The HAFC encourages HUD to provide this service to PHAs and other federally funded agencies whose limited resources hinder their LEP efforts.

The HAFC will consider technological aids such as Internet-based translation services, which may provide helpful, although perhaps not authoritative, translations of written materials.

20.5 AUDIOVISUAL MATERIALS

The HAFC will make reasonable efforts to produce multiple translations of audiovisual materials it uses to inform or educate applicants, participants and other client groups.

20.6 INTERPRETERS

Formal Interpreters

To provide meaningful access for LEP clients, the HAFC will use the Language Line Services which provides accurate and complete interpretation in 156 languages. At important stages that require one-on-one contact, written translation and verbal interpretation services will be provided consistent with the four-factor analysis herein.

Outside vendors who are qualified interpreters shall be used at the following and at the request of the family:

- Informal reviews for denial of admission
- Informal meetings for settlement agreements and
- Informal hearings for termination of rental assistance.

Informal Interpreters

Informal interpreters may include the family members, friends, legal guardians, service representatives or advocates of the LEP client. HAFC staff will determine whether it is appropriate to rely on informal interpreters, depending upon the circumstances and subject matter of the communication. However in many circumstances, informal interpreters, especially children, may not be an appropriate option to provide accurate interpretations. There may be issues of confidentiality, competency or conflict of interest.

An LEP person may use an informal interpreter of his/her own choosing and at his/her expense, either in place of or as a supplement to the free language assistance offered by the HAFC. If possible, the Housing Authority should

accommodate an LEP client's request to use an informal interpreter in place of a formal interpreter.

If an LEP client prefers an informal interpreter, after the HAFC has offered free interpreter services, the informal interpreter may interpret. If the LEP person decides to provide his/her own interpreter, the LEP person's election of this choice will be documented. The HAFC may require the family to sign a waiver of their right to the HAFC-supplied interpreter.

If an LEP client wants to use his/her own informal interpreter, the HAFC reserves the right to also have a formal interpreter present.

Outside Resources

Outside resources may include community volunteers, HAFC residents or Housing Choice Voucher/Section 8 participants.

Outside resources may be used for interpreting services at public or informal meetings or events if a timely request has been made.

The HAFC will establish and maintain relationships with organizations that assist specific cultural and ethnic groups living in Fresno County. To help their clients obtain or keep housing assistance through the HAFC, these organizations may provide qualified interpreters for LEP persons.

20.7 MONITORING

The HAFC will review and revise the LAP Policy as needed as part of the Agency Plan process. The review will include:

- Reports from the HAFC's software system on the number of LEP clients, to the extent that the software and staff data entry can provide such information. Such reports may be supplemented by staff observations.
-
- A determination as to whether 5 percent or 1,000 persons from HCV participants speak a specific language, which triggers consideration of document translation needs as described above.
-
- Analysis of staff requests for contract interpreters: number of requests, languages requested costs, etc.

20.8 LEP POLICY DISTRIBUTION AND TRAINING

The LEP Policy will be:

- Distributed to all HAFC staff.
- Available at the HAFC Administrative Office.
- Posted on HAFC's website at www.fresnohousing.org
- Explained in orientation and training sessions for supervisors and other staff who need to communicate with LEP clients.

CHAPTER 21: SECTION 8 HOMEOWNERSHIP PROGRAM

21.1 INTRODUCTION

The HAFC has developed their Section 8 Homeownership Program (S8 HOP) according to the Quality Housing and Work Responsibility Act of 1998 and the Section 8 Homeownership Final Rule of September 12, 2000.

21.2 GENERAL PROVISIONS

[24 CFR 982.625]

S8 HOP option is used to assist existing Housing Choice Voucher (HCV) program participants to purchase a home using mortgage subsidy rather than rental subsidy. Under this subsidy option the HAFC will pay a monthly homeownership assistance payment; it will not offer homeowner assistance in the form of a single down payment assistance grant.

The HAFC will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The HAFC has established a minimum homeowner down payment requirement of at least three (3) percent of the purchase price for participation in the S8 HOP; and requires that at least one (1) percent of the purchase price come from the participant's personal resources.

The HAFC requires financing on the purchase of a home under the S8 HOP to:

1. Be provided, insured, or guaranteed by the State or Federal government;
2. Comply with secondary mortgage market underwriting requirements, or
3. Comply with generally accepted private sector underwriting standards.

21.3 FAMILY ELIGIBILITY REQUIREMENTS

[24 CFR 982.626, 982.627]

The participant must meet all initial requirements before the commencement of homeownership assistance, these include: First Time Home Buyer, Unit Eligibility, Income, Employment and the additional HUD requirements listed below:

21.3.1 First Time Home Buyer Requirements

Requirements include the following:

1. The participant must be an existing participant in the HCV program.

2. The participant must have satisfactorily completed the HAFC pre-purchase one-on-one and group homeownership counseling.
3. The participant must satisfy the first-time homeowner requirement by being any of the following:
 - A first-time homeowner (as defined in the Glossary of this Administrative Plan);
 - A new cooperative member (as defined in the Glossary); or
 - A participant of which at least one family member in the household is a person with a disability, and use of the homeownership option is needed as a reasonable accommodation.

21.3.2 Unit Eligibility Requirements

Refer to ELIGIBLE UNITS later in this Chapter.

21.3.3 Income Requirements

- The participant must have a gross annual income equal to the federal minimum wage multiplied by 2,000, based on the income of adult family members who will own the home. Unless the family is elderly or disabled, income from welfare assistance will not be counted toward this requirement.
- In the case of elderly/disabled participants, the minimum income requirement will be the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone multiplied by twelve.
- For an elderly/disabled participant, welfare assistance payments for adult family members who own the home will be included in determining the minimum income requirement.

21.3.4 Employment Requirements

The participant must meet the federal minimum employment requirement. (This does not apply to elderly or disabled participants).

At least one adult family member who will own the home must be currently employed fulltime and must have been continuously employed for one year prior to homeownership assistance. (This does not apply to elderly or disabled participants).

HUD regulations define “full-time employment” as not less than an average of 30 hours per week.

A participant will be considered to have been continuously employed even if that participant has experienced a break in employment, provided that the break in

employment did not exceed 30 calendar days; did not occur within the 6-month period immediately prior to the family's request to utilize the homeownership option; and has been the only break in employment within the past 12 calendar months.

21.3.5 Additional HUD Eligibility Restrictions

There are two additional HUD eligibility restrictions:

- The HAFC denies the use of S8 HOP for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance. No family member may have ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- The HAFC denies the use of the S8 HOP for a participant in which an adult member of the household has defaulted on a mortgage while receiving homeownership assistance, thereby securing debt which will be incurred to the home purchase.

21.4 HOMEOWNERSHIP COUNSELING REQUIREMENTS

[24 CFR 982.630]

Once the participant has been determined eligible, they must complete group and/or one-on-one homeownership counseling sessions on the following:

- Budgeting/Financial Literacy
- Credit
- Pre-purchase Homebuyer Education
- Home maintenance (including care of grounds)
- Negotiating the purchase price of a home
- Obtaining loan pre-approvals, and selecting appropriate financing
- Selecting a home in HAFC jurisdiction based on family needs such as; schools, transportation, supportive services, etc.
- Understanding state and federal truth-in-lending laws to identify and avoid loans with oppressive terms and conditions

In addition, the participant must complete a 16-hour Homeownership Education and Counseling (HEC) certification program of the HAFC.

The HAFC will require quarterly post-purchase counseling after commencement of homeownership assistance until the final homeownership assistance payment is provided.

21.5 ELIGIBLE UNITS

[24 CFR 982.628]

The unit must meet all of the following requirements:

- Participants may enter into a contract of sale for units not yet under construction, however HAFC will not issue homeownership assistance payments for the unit unless or until:
- The responsible entity has completed an environmental review and provided the review to the HAFC; or
- HUD has performed an environmental review and notified the HAFC in writing of the environmental approval of the site prior to commencement of construction; or
- Construction of the unit has been completed, and the unit has passed Housing Quality Standards (HQS) and the independent private inspection.
- The HAFC will require participants to obtain and maintain flood insurance for units in a special flood hazard area, and prohibit assistance for participants acquiring units in coastal barrier resources. The HAFC will notify the participant if the unit is in an airport runway clear zone and/or airfield clear zone.
- The unit is either a one-unit property (including a manufactured home) or single dwelling unit in a cooperative or condominium.
- A unit where the family will not own fee title to the real property on which the home is located will be approved only if:
 - The home is or will be located on a permanent foundation; and
 - The family has the right to occupy the home site for at least 40 years.
 - The unit has passed inspection by HAFC and by an independent inspector designated and paid for by the family.

21.6 INELIGIBLE UNITS

[CFR 982.352]

The unit must not fall under any types of housing listed as ineligible housing in Chapter 9 of this administrative plan, with the exception of:

- A unit occupied by its owner or by a person with any interest in the unit.
- HAFC-owned housing

The HAFC will not approve the seller of the unit if the HAFC has been informed that the seller is disbarred, suspended, or subject to a limited denial of

participation.

21.7 ISSUANCE OF SECTION 8 VOUCHER AND PURCHASE REQUIREMENTS

[24 CFR 982.629]

A homeownership voucher will be issued to the participant when all requirements have been met. The participant deadline date for locating, purchasing, and closing escrow on a home is 120 calendar days from the date the family's eligibility for the homeownership option is determined. With good cause, the HAFC may extend the time limit for a participant for an additional 30 days.

Participants must submit progress reports during the housing search and escrow period, while continuing to meet with the homeownership coordinator for ongoing counseling. Participant progress reports will be provided in 30-day intervals.

If the participant is unable to purchase a home within the maximum time permitted by HAFC, the HAFC will continue the client's participation in the Section 8 Housing Choice Voucher rental subsidy program. The participant may not re-apply for the Section 8 Homeownership program until they have completed one-on-one counseling with the Homeownership Coordinator/Housing Counselor.

21.8 INSPECTIONS AND SALES CONTRACT

[24 CFR 982.631]

The unit must meet HQS regulations, and must also be inspected by an independent professional inspector selected by, and paid for, by the participant. The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

Foundation and structure; housing interior and exterior; roofing; plumbing, electrical and heating systems. Copies of the independent inspection report is provided to the participant and the HAFC by the independent inspector. Based on the information in this report, the family and HAFC determines whether any pre-purchase repairs are necessary.

The HAFC may disapprove the unit for homeownership assistance based on information provided with the inspection report.

21.8.1 Sales Contract

The participant must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the HAFC. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

- Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory to the purchaser and to the HAFC.
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Must have certification that the seller has not been debarred, suspended or subject to a limited denial of participation.

21.9 FINANCING AND AFFORDABILITY OF PURCHASE

[24 CFR 982.632]

The participant is responsible for securing financing options, and obtaining HAFC approval of the proposed mortgage. HAFC will impose financing restrictions listed below, and may disapprove proposed financing options if HAFC determines that the debt is unaffordable.

HAFC will prohibit the following forms of financing:

- Adjustable Rate Mortgage (ARM)
- Balloon payment mortgages
- Seller financing will be considered on a case-by-case basis.

21.10 MORTGAGE ASSISTANCE REQUIREMENTS AND FAMILY OBLIGATIONS

[24 CFR 982.633]

Homeownership assistance may only be paid while the participant is residing in the home. The HAFC shall not pay Homeownership Assistance Payment for any month after the month when the family moves out of the home.

Before the commencement of homeownership assistance, the unit must pass HQS inspection, and the participant must execute a statement of family obligations. The participant and any other adult(s) on the mortgage loan must comply with the following obligations:

- To the extent required by the HAFC, the mortgagee(s) must attend and complete ongoing housing counseling. (Refer to *Homeownership Counseling Requirements* in this Chapter.)
- The mortgagee(s) must comply with the terms of any mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The participant may not convey or transfer ownership of the home, except for purposes of HAFC approved financing, refinancing, or pending settlement of the estate of a deceased family member. Use and

occupancy of the home are subject to the following stipulations:

- The participant must utilize the home receiving HAFC mortgage subsidy as their primary and only residence (CFR 982.551 [h]). The participant must provide certification of primary residence and promptly notify the HAFC upon absence from the unit [CFR 982.551 (h)(1)].
- The participant must notify the HAFC of any changes in the home pertaining to family composition. All changes in family composition must be approved by the HAFC [CFR 982.551 (h)(2)].
- Profit-making activities facilitated by any household member must be incidental to the family's residence in the home [CFR 982.551 (h)(5)].
- Household members may not sublease or sublet the home [CFR 982.551 (h)(6)] .
- The participant must supply true and complete information upon the request of the HAFC or HUD which includes but is not limited to:
 - Evidence of citizenship or eligible immigration status (CFR 982.551[b])
 - Information used to complete regularly scheduled reexamination of interim reexaminations of family composition and income (CFR 982.551[b])
 - Social Security numbers (CFR 982.551[b])
 - Mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The participant must notify the HAFC before moving out of the home.
- The participant must notify the HAFC if the family defaults on the mortgage used to purchase the home.
- Neither the participant nor any other family member residing in the home may have any ownership interest in any other residential property.
- The participant must allow HAFC, to inspect the property for HQS compliance prior to the commencement of mortgage subsidy and annually within a 12 month period for as long as the mortgage assistance is provided by the HAFC.

Before commencement of homeownership assistance, the participant must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

21.11 MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE

[24 CFR 982.634]

The maximum term of homeownership assistance is:

- 15 years, if the initial mortgage term is 20 years or longer; or
- 10 years in all other cases.

However, the maximum term does not apply in the case of elderly or disabled participants. In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. Additionally, in the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the participant qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date the mortgage assistance commenced. However, in this case the family must be afforded at least 6 months of homeownership assistance after the maximum term becomes applicable.

21.11.1 Assistance for Different Homes or from Different Housing Authorities

If the participant has previously received homeownership assistance from any PHA and after a 3 year period, now qualifies for the S8 HOP option, the total amount of assistance terms is subject to the maximum term limitations noted above. The time limit applies to any member of the household who has ownership interest in the unit during any time that homeownership payments are made, or is a spouse of any member of the household who has an ownership interest.

21.12 HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES

[982.635]

The monthly homeownership assistance payment will be equal to the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HAFC uses the same payment standard schedule, as those described in this Plan for the HCV program. However, when the payment standard falls below the payment standard used at the initial eligibility for S8 HOP, the higher of the two will be used for determining mortgage subsidy.

The HAFC pays the homeownership mortgage assistance payment directly to the S8 HOP participant, or directly to the lender, depending on the preference of the lending institution.

In accordance with HUD regulations, the HAFC has determined the following items will be included as homeownership expenses:

- Principal and interest on initial mortgage debt
- Refinancing of initial mortgage debt
- Mortgage insurance premiums incurred to finance the purchase of the home
- Real Estate Taxes and public assessments of the home
- Home insurance
- An allowance for major repairs and replacements
- Principal and interest on debt for home repairs and improvements
- HAFC utility allowance used for the HCV program
- Allowance for routine maintenance costs
- Land lease payments (where a family does not own fee title to the real property on which the home is located)

If the home is a cooperative or condominium, expenses will exclude Real Estate taxes and public assessment allowance, but include operating charges or maintenance fees assessed by the condominium or cooperative homeowner association.

Homeownership assistance for a participant terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the participant. However, HAFC has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the participant.

Extreme hardship would be defined as:

- Significant reduction in the household income
- Significant household debt, which was beyond the control of the participant

The HAFC reviews all relevant circumstances regarding financial hardship and reviews them on a case-by-case basis.

21.13 PORTABILITY

[24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this Plan, the participant may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership participants.

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21.14 MOVE WITH CONTINUED TENANT-BASED ASSISTANCE

[24 CFR 982.637]

A participant receiving homeownership assistance may move with continued tenant-based assistance in accordance with HUD regulations in 982.637. The participant may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin if any family member owns any title to the prior home.

21.15 TERMINATION OF ASSISTANCE FOR THE FAMILY

[24 CFR 982.638, 982.551, 982.552, 982.553]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program outlined in Chapter 15 of the Administrative Plan in accordance with CFR 982.551.

However, the following provisions are not applicable to homeownership:

- Activities regarding lease agreements such as lease violations, transfer of a lease or lease terminations
- Providing eviction notice
- The participant cannot own or have interest in the unit

The HAFC will terminate homeownership assistance if the participant is dispossessed from the home due to a judgment or order of foreclosure.

The HAFC will permit such participant to move with continued voucher rental assistance. However, rental assistance will be denied if the participant has defaulted on a Federal Housing Administration (FHA) insured mortgage, and the participant fails to demonstrate that:

- The participant conveyed title to the home as required by HUD, and;
- The participant moved within the period required by HUD.

The HAFC will terminate homeownership assistance if the participant or any other member of the household violates any of the following:

- Those stated in Chapter 15 of this administrative plan, Grounds for Denial or Termination of Assistance (CFR 982.552)
- Those stated in Chapter 15 of this administrative plan, Crime by Family Members (CFR 982.553).

CHAPTER 22: PROJECT-BASED VOUCHERS

22.1 INTRODUCTION

Under the project-based voucher (PBV) program a local housing authority will enter into a contract with an owner for specific units for a specific term in order to 1) expand the affordable housing in the community, and 2) to provide rental assistance for qualifying low-income families. The voucher assistance is attached to the structure, rather than to the tenant, as occurs in the tenant-based voucher program.

The program does not receive separate funding; housing authorities that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD are allowed to use part of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance. Housing authorities will only operate a PBV program which is consistent with its Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities. Housing Authority of Fresno County (HAFC) has stated in its Annual Plan its reasons for offering a PBV program in Fresno County, and these are restated below:

22.1.1 *Program's Current Goals*

HAFC has the following current goals for the Project-Based Voucher program:

- HAFC will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.
- It will promote the de-concentration of poverty and expanding housing opportunities by selecting projects which are in non-impacted areas (with the exception being those six RDA areas described in the next section below).
- It will work with other programs to expand the affordable housing opportunities in our community.
- Promote development of housing units serving very low income populations, such as homeless, special needs and individuals with severe mental illness.
- FH seeks to enhance services at project-based voucher developments by supporting and tracking the educational achievement and school attendance of its residents and coordinating with partner agencies other necessary resident and social service programs. To that end, FH may implement one or more pilot programs that promote education and school attendance and/or other pilot programs to benefit residents at one or more project-based voucher developments. In connection with the pilot program(s), FH will implement data sharing practices that allow FH to

coordinate with partner agencies and share authorized information, including information related to school attendance and performance. FH will obtain all required authorizations, waivers, and approvals before receiving data from or providing data to a selected agency.

22.1.2 Annual Plan Statement

As HAFC strives to provide housing opportunities for individuals and families in need throughout Fresno County, especially those who are most vulnerable, project based vouchers (PBV) are an essential resource. To date, HAFC has agreed to provide PBV to projects targeting persons with very-low incomes, generally below 30-40% of the area median income. Projects selected are in accordance with HUD Title 24 Part 983.51 and HAFC's Administrative Plan. Selected projects have demonstrated a need for rent subsidy in order to help offset basic operating costs and allow for the projects' financial feasibility.

22.2 DESCRIPTION OF THE PBV PROGRAM

[24 CFR 983.5]

The PBV program is administered by a public housing authority that already administers the tenant-based voucher program, as mentioned earlier, as follows:

- After going through the selection process described later in this Chapter, HAFC enters into a HAP contract with an owner for units in existing housing or in newly constructed or rehabilitated housing.
- In the case of newly constructed or rehabilitated housing, the housing is developed under an Agreement between the owner and the HAFC. In the agreement HAFC agrees to execute a HAP contract after the owner completes the construction or rehabilitation of the units.
- During the term of the HAP contract, HAFC makes housing assistance payments to the owner for units leased and occupied by eligible families.

22.3 PBV RULES VERSUS TENANT-BASED VOUCHER RULES

[24 CFR 983.1, 983.2]

Much of the tenant-based voucher program regulations in 24 CFR 982 also apply to the PBV program. Consequently, many of the HCV policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do *not* apply to the PBV program are listed at 24 CFR 983.2, such as voucher issuance and portability.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HAFC policies for the tenant-based voucher program contained in this Administrative Plan, also apply to the PBV program and its participants.

22.4 PBV DEFINITIONS

[983.3(b)]

Definitions specific to the PBV program are covered in 24 CFR 983.3(b). Definitions regarding other voucher terms can be located in 24 CFR 982.4.

Included below are some key HUD definitions which will assist in understanding our policy regarding the administration of the PBV program in Fresno County.

Agreement to Enter into HAP Contract (Agreement). The Agreement is a written contract between the HAFC and the owner in the form prescribed by HUD. The Agreement defines requirements for development of housing to be assisted under the PBV program. Once development is completed by the owner in accordance with the Agreement, the HAFC enters into a HAP contract with the owner. The Agreement is not used for existing housing (as described below).

Existing Housing. Housing units that already exist on the proposal selection date and that substantially comply with the Housing Quality Standards (HQS) on that date. [The units must fully comply with HQS before execution of the HAP contract].

Newly Constructed Housing. Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the HAFC and the owner for use under the PBV program.

Non-Impacted Areas. Those areas that are not located in non-poverty impacted census tracts and the six Redevelopment Agency (RDA) areas located within Fresno County jurisdiction.

HAFC-Owned Unit. For purposes of the PBV program, a HAFC-owned unit is one which is owned by the HAFC that administers the voucher program. HAFC-owned means that the HAFC or its officers, employees, or agents hold a direct or indirect interest in the building in which the unit is located, including an interest as titleholder or lessee, or as a stockholder, member of general or limited partner, or

member of a limited liability corporation, or an entity that holds any such direct or indirect interest.

Proposal Selection Date. The date the HAFC gives written notice of PBV proposal selection to an owner whose proposal is selected in accordance with the criteria established in this Chapter.

Rehabilitated Housing. Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an Agreement between the HAFC and owner, for use under the PBV program.

22.5 RELOCATION REQUIREMENTS

[24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program, must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HAFC may not use voucher program funds to cover relocation costs, except that HAFC may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR Part 24, subpart B. It is the responsibility of the HAFC to ensure the owner complies with these requirements.

22.6 EQUAL OPPORTUNITY REQUIREMENTS

[24 CFR 983.8]

HAFC will comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, HAFC must comply with the Agency Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

22.7 HOUSING TYPE

[24 CFR 983.52]

HAFC may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an Agreement to Enter into a Housing Assistance Payments Contract (hereafter referred to as Agreement) that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HAFC selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

HAFC's choice of housing type will be reflected in its solicitation for proposals.

22.8 PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS: INELIGIBLE HOUSING TYPES

[24 CFR 983.53]

The HAFC will not attach or pay PBV assistance to:

- shared housing units;
- units on the grounds of a penal reformatory, medical, mental, or similar public or private institution;
- nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities);
- units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students;
- manufactured homes;
- cooperative housing; and
- transitional housing.

In addition, the HAFC will not attach or pay PBV assistance for a unit occupied by an owner and the HAFC will not select or enter into an Agreement or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

22.9 PROHIBITION OF PBV ASSISTANCE IN SUBSIDIZED HOUSING

[24 CFR 983.54]

HAFC will not attach or pay PBV assistance to units in any of the following types

of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a housing authority may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HAFC in accordance with HUD requirements.

22.10 PROJECT-BASED VOUCHERS AND HAFC-OWNED UNITS

[24 CFR 983], 983.102(f), 983.301((g) and 983.303(f)]

HUD allows HAFC-owned units to be assisted under the PBV program, with certain stipulations:

- HUD requires Housing Quality Standard (HQS) inspections and determination of reasonable rent to be conducted by outside entities [983.59(b)].
- Rent determinations must be in accordance with 24 CFR 983.301 through 983.305 with the same requirements of other units; i.e., are determined by independent entity approved by HUD.
- The independent entity approved by HUD must establish the initial contract rents based on an appraisal by a licensed, state-certified appraiser [983.59(b)(1)].
- The independent entity that performs these program services may be the unit of general local government for Fresno County or another HUD-approved public or private independent entity [983.59(c)].
- Payment of the independent entity and the appraiser will come from HAFC ongoing administrative fees [983.59(d)]; but may be reimbursed by the developer or owner requesting project-based vouchers.
- The independent entity, HAFC and the appraiser may not charge the

family any fee for the appraisal or the services provided by the independent entity [983.59(d)].

- Copies of the HQS inspections and rent reasonableness determinations must be provided to the HUD field office as well as to the HAFC [983.103(f)(2), 983.303(f)(2)].
- A HAFC-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines selection was appropriate based on the selection criteria in the administrative plan [983.51(e)].
- Under no circumstances may PBV assistance be used with a public housing unit [983.51(e)].

22.11 SELECTION OF PBV OWNER PROPOSALS

HAFC will describe the procedures for owner submission of PBV proposals in its Request for Proposal (RFP). The RFP will also include the selection criteria to be used by HAFC in selecting owner proposals. Before selecting a PBV proposal, the HAFC must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per building, and meets the site selection standards described in this Chapter.

22.11.1 Owner Proposal Selection Procedures

[24 CFR 983.51]

HAFC will select PBV proposals in accordance with the selection procedures in its administrative plan and each individual RFP. It will select PBV proposals by either of the following two methods.

Method One: Competitive Basis

HAFC will solicit application submissions in response to an RFP under a competitive selection process. HAFC will not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

Method Two: Prior Competitive Selection

The HAFC may select proposals that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was,

- subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME units); and
- where the proposal has been selected in accordance with such program's

competitive selection requirements within three years of the PBV proposal selection date, and

- where the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Method Three: Units Selected Non-Competitively [FR Notice 1/18/2017]

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The HAFC may attach Project Based Vouchers (PBV) to projects in which the HAFC has ownership or controlling interest, without following a competitive process, when the HAFC engages in an initiative(s) to improve, develop, convert under the HUD Rental Assistance Demonstration, preserve, and/or replace a public housing property(ies) or site(s). Ownership Interest means that the HAFC or its officers, employees, or agents are in an entity that holds any such direct or indirect interest in the building(s) and/or real property, including, but not limited to an interest as: titleholder; lessee; a stockholder; a member, or general or limited partner; or a member of a limited liability corporation or limited partnership. Projects selected with this exemption method will typically include planning rehabilitation or construction on the project with a minimum of \$25,000 per unit in hard costs. However, this minimum per unit cost would not be applicable in a situation where the HAFC is replacing a public housing property(ies) or site(s) with existing housing owned or controlled by the HAFC.

Project Based Vouchers (PBV's) are contemplated to be utilized at a number of developments either in traditional Low-Income Housing Tax Credit (LIHTC) developments or through the U.S. Department of Housing and Urban Development's Rental Assistance Demonstration (RAD) program. The number and location of PBV's proposed for 2018 are broken down as follows:

County AMP 1

Pinedale Apartments (50 Units)

Pinedale Apartments (30 Units)

Desoto Gardens (40 Units)

Marcelli Terrace (24 Units)

County AMP 2

Del Rey Complex (30 Units)

Laton Apartments (20 Units)

Wedgewood Commons (64 Units)

County AMP 3

Sunset Terrace I (20 Units)

Oak Grove Apartments (50 Units)

County AMP 4

Mendoza Terrace (50 Units)

Mendoza Terrace II (40 Units)

Firebaugh Elderly (30 Units)

Cardella Courts (32 Units)

County AMP 6

Taylor Terrace (28 Units)

San Joaquin Apartments (20 Units)

Schedule:

03/01/2018 & 07/01/2018 Tax Credit Applications

07/01/2018 & 10/01/2018 Tax Credit Award

12/01/2018 & 03/01/2019 Construction Starts

12/01/2019 & 03/01/2020 Construction Completions

Magill Terrace RAD

The 60-unit affordable housing development is expected to break ground in December 2017. The site previously consisted of 20 units of low income public housing that are being converted through RAD. The new development will include a community building, an on-site manager, playground facilities, and market-quality energy efficient units. We propose substantial rehabilitation and/or new construction for this site.

Schedule:

12/2017 Construction Start

12/2018 Construction Completion

Oak Grove RAD

The proposed Oak Grove RAD project aims to rehabilitate a 50-unit low-income public housing property in the City of Parlier. The proposed project includes demolition and reconstruction, with the potential addition of new units.

Schedule:

06/2017 Tax Credit Application

03/2018 Construction Start

03/2019 Construction Completion

Highway City Marcelli Terrace

The proposed conversion project is comprised of existing public housing located in the Highway City area in Fresno County. The proposed project may consist of a substantial rehabilitation of the 24 residential units, new construction, and/or transfer of assistance.

Schedule:

03/2018 Tax Credit Application

12/2018 Construction Start

12/2019 Construction Completion

Huron RAD

The proposed Huron RAD project aims to rehabilitate three properties (totaling 64 units) in the City of Huron. The project may include transfer of assistance, demo, and/or section 18 disposition.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

Firebaugh RAD

The Firebaugh RAD project is envisioned in multiple phases. The project may include up to 152 units of low-income housing with substantial rehabilitation, demolition and new construction, and/or transfer of assistance.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

Pinedale RAD

The proposed development is located in Pinedale, within the City of Fresno boundary. HAFC's vision for the project consists of substantial rehab of 80 scattered affordable, very-low to low-income housing apartment rentals or the new construction of units on a new parcel of land.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

Wedgewood Commons RAD

The Wedgewood complex consists of 64 low-income senior units. The HAFC envisions a rehabilitation of the property under the RAD program and/or a reconstruction effort.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

DeSoto Gardens RAD

The HAFC envisions the potential inclusion of the DeSoto Gardens property (40 units) in a larger redevelopment of adjacent sites (affordable housing owned by the Housing Authority of the City of Fresno), not excluding the possibility of a transfer of assistance or substantial rehabilitation. We propose substantial rehabilitation and/or new construction.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

San Joaquin Commons Apartments

The proposed development is located in the City of San Joaquin. HAFC's vision for the project consists of 50-80 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit. We propose substantial rehabilitation and/or new construction.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

Citrus Gardens Orange Cove

The proposed development is located in the City of Orange Cove. HAFC's vision for the project consists of substantial rehab and/or new construction of 30 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit.

Schedule:

06/2018 Tax Credit Application

03/2019 Construction Start

03/2020 Construction Completion

County AMP 2

Del Rey Complex (30 Units)

Laton Apartments (20 Units)

County AMP 3

Sunset Terrace I (20 Units)

Oak Grove Apartments (50 Units)

County AMP 6

Taylor Terrace (28 Units)

San Joaquin Apartments (20 Units)

Site-based interest lists will be established for each mixed finance development.

In specific instances, PBV assistance can be awarded non-competitively and posted for public notification. These proposals can be presented at any time. These proposals will be rated on its merits and selected based on type of population being served. Owners or developers are not required to wait for publication of a Request for Proposal to present a proposal for consideration under the guidelines of non-competitive selection. However, the HAFC must publish the award of any units under the PBV program in a newspaper of general circulation. Every effort will be made to do this within 30 days.

22.11.2 Solicitation and Selection of PBV Proposals

HAFC procedures for selecting PBV proposals will be designed and operated to provide broad public notice of the opportunity to offer PBV proposals for its consideration. The public notice procedures will include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the HAFC request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties. HAFC policy for requesting proposals is listed below by unit type.

22.11.3 HAFC Request for Proposals for Rehabilitated and Newly Constructed Units

HAFC will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals:

- *The Fresno Bee*
- *The Business Journal*

HAFC will post the RFP and proposal submission rating and ranking procedures on its electronic website.

Publication of its advertisement will be carried in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units that HAFC estimates it will be able to assist under the funding the HAFC has made available. Proposals will be due in the HAFC office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the HAFC by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

HAFC will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers HAFC's goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Promoting development of housing units serving very low income populations, such as homeless, special needs and individuals with severe mental illness.

22.11.4 HAFC Requests for Proposals for Existing Housing Units

[24 CFR 983.51(c)]

HAFC will follow the same process in requesting proposals for existing housing units as described in Section 21.11.3 above, except that owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the HAFC goal for deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

22.11.5 HAFC Selection of Proposals: Previous Competition

HAFC will periodically advertise it is accepting proposals for PBV assistance from owners of units which were competitively selected under another federal, state or local housing assistance program. Advertisements will be published in the following newspapers and trade journals:

- *The Fresno Bee*
- *The Business Journal*

In addition to, or in place of advertising, HAFC may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The HAFC will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the HAFC goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal compliments other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, or other development activities in a HUD-designated Enterprise Zone, Economic Community, Redevelopment Area or Renewal Community.

22.11.6 HAFC Notice of Owner Selection

[24 CFR 983.51(d)]

HAFC must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures will include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

Within 10 business days of HAFC making the selection, the HAFC will notify the selected owner in writing of the owner's selection for the PBV program. The HAFC will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HAFC will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals which were used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HAFC will also post the notice of owner selection on its electronic web site.

HAFC will make available to any interested party its rating and ranking sheets and documents that identify the basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. HAFC will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

HAFC will make these documents available for review at its Central Office during normal business hours. The cost for reproduction of allowable documents will be according to the department's general policy, which is \$.50 for the first page and \$.30 per page thereafter, plus \$20 per hour for staff time or \$5 per quarter hour or fraction thereof.

22.11.7 Prohibition of Excess Public Assistance: Subsidy Layering Requirements

[24 CFR 983.55]

HAFC will provide PBV assistance only in accordance with HUD subsidy layering regulations and other requirements. However, a subsidy layering review is not required in the case of a HAP contract for an existing project or if a subsidy layering review has been conducted by the applicable State or local agency.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

HAFC will submit the necessary documentation to HUD for a subsidy layering review. The Authorities will not enter into an Agreement or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

22.11.8 Cap on Number of PBV Units in A Project

[24 CFR 983.56]

25 Percent per Project Cap

[24 CFR 983.56(a)]

In general, the HAFC will not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project. "Project" is defined to mean "a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land".

Exceptions to 25 Percent per Project CAP

[24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if the units are in a single-family building (one to four units) or are excepted units". Beyond this, HAFC will not impose any further cap on the number of PBV units assisted per project.

In selecting families for admission to excepted units, the Management Agent must give preference to elderly or disabled families; or to families receiving supportive services.

Management Agent will ensure there is a Statement of Family Responsibility signed by the family and Management Agent at the time leasing is conducted for the excepted unit.

22.11.9 Excepted Units Within a Multifamily Project

“Excepted Units” mean units in a multifamily project that are specifically made available for qualifying families and individuals. Qualifying families and individuals are elderly or disabled or are receiving supportive services. To qualify a family must have at least one member receiving at least one supportive service. If applicable, an individual must also be receiving supportive services for special needs such as mental health service. The service can either be provided on site or utilized on a referral basis through staff services on site.

The types of supportive services that will be offered include, but are not limited to:

- After-school tutoring and homework help for a minimum of four hours weekly;
- Educational and computer training classes for children and adults for a minimum of six hours weekly.

For qualifying families in Excepted Units, all services will be monitored annually. Families will be required to certify their participation in the supportive services, which will be verified by the HAFC. In addition, the owner must certify annually that it continues to provide a supportive services program. The owner must also notify the HAFC immediately once a family is no longer in compliance with their services obligation.

Management Agent will monitor the supportive services requirement regularly to ensure a qualifying family continues to reside in all excepted units.

Attendance records at supportive service classes, where required, will meet this monitoring requirement.

All families are required to certify their participation in supportive services.

Management Agent (may provide through a vendor) must certify annually that it continues to provide the supportive service program(s).

Management Agent must notify HAFC immediately once a family no longer meets the definition of qualifying family; (e.g., is in non-compliance with their

supportive services obligation; or due to a change in family composition the family is no longer elderly or disabled).

HAFC Quality Assurance will audit family participation in any required supportive services attached to the excepted unit; this will be done at least annually or more often if needed.

22.11.10 Site Selection Standards

[24 CFR 983.57]

Compliance with PBV Goals, Civil Rights Requirements, and HQS

[24 CFR 983.57(b)]

HAFC will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP contract for units on the site, unless the HAFC has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the HAFC's Agency Plan and the Housing Choice Voucher's administrative plan.

In addition, prior to selecting a proposal, the HAFC must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

It is the HAFC's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the Authorities will limit approval of sites for PBV housing to census tracts that have poverty concentrations of 20 percent or less.

However, the HAFC will grant exceptions to the 20 percent standard where it is determined that the PBV assistance will compliment other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI

redevelopment;

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances will the HAFC approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate or forty percent, whichever is lower.

22.11.11 Existing and Rehabilitated Housing Site and Neighborhood Standards

[24 CFR 983.57(d)]

HAFC will not enter into an Agreement to enter into a HAP contract (nor enter into a HAP contract for existing or rehabilitated housing) until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, retail and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

22.11.12 New Construction Site and Neighborhood Standards

[24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing

must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the HAFC determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, retail and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units appropriate to the subject population; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

22.11.13 Environmental Review

[24 CFR 983.58]

HAFC activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HAFC will not enter into an

Agreement nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of an existing structure, the HAFC is not required to undertake any environmental review before entering into a HAP contract, except to the extent such a review is otherwise required by law or regulation.

HAFC will not enter into an Agreement or a HAP contract with an owner, and the HAFC, the owner, and its contractors will not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

HAFC must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HAFC must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

22.12 DWELLING UNITS

[24 CFR 983.101]

Overview

The housing quality standards for PBV are essentially the same as for Tenant Based Vouchers, except the requirements for Lead-Based Paint are exchanged for the following:

Lead-based Paint

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992(42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35,subparts A, B, H, and R, apply to the PBV program.

22.12.1 Housing Accessibility for Persons with Disabilities

[24 CFR 983.102]

The housing must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The HAFC must ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102).

22.13 INSPECTING UNITS

22.13.1 Pre-selection Inspection

[983.103(a)]

The HAFC must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HAFC must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, HAFC will not execute the HAP contract until the units fully comply with HQS.

22.13.2 Pre-HAP Contract Inspections

[983.103(b)]

The HAFC must inspect each contract unit before execution of the HAP contract. HAFC will not enter into a HAP contract covering a unit until the unit fully complies with HQS.

22.13.3 Turnover Inspections

[983.103(c)]

Before providing assistance to a new family in a contract unit, the HAFC must inspect the unit. The HAFC will not provide assistance on behalf of the family until the unit fully complies with HQS.

22.13.4 Annual Inspections

[983.103(d)]

At least annually during the term of the HAP contract, the HAFC must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in

accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the HAFC must reinspect 100 percent of the contract units in the building.

22.13.5 Other Inspections

[983.103(e)]

The HAFC must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HAFC must take into account complaints and any other information coming to its attention in scheduling inspections.

The HAFC must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HAFC supervisory quality control HQS inspections, the HAFC should include a representative sample of both tenant-based and project-based units.

22.13.6 Inspecting HAFC-Owned Units

[983.103(f)]

In the case of HAFC-owned units:

- The inspections must be performed by an independent agency as designated in this Chapter, rather than by HAFC.
- The independent entity will furnish a copy of each inspection report to HAFC and to the HUD field office.
- HAFC will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the HAFC owner.

22.14 REQUIREMENTS FOR REHABILITATED AND NEWLY CONSTRUCTED UNITS

22.14.1 Applicability

[983.151]

This section applies to PBV assistance for newly constructed or rehabilitated housing. This section does not apply to PBV assistance for existing housing.

Housing selected for this type of assistance, will not at a later date be selected for PBV assistance as existing housing.

22.14.2 Purpose of the Agreement to Enter into HAP Contract

[983.152(b)]

In order to offer PBV assistance in rehabilitated or newly constructed units, the HAFC must enter into an Agreement with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HAFC agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HAFC will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

22.14.3 Content of the Agreement

[983.152(c)]

At a minimum, the Agreement must comply with the Housing Quality Standards and describe the following features of the housing to be developed and assisted under the PBV program:

- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Site and the location of the contract units;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;

- For rehabilitated units, the work description must include the rehabilitation work write up and, where determined necessary by the HAFC, specifications and plans.
- For new construction units, the description must include the working drawings and specifications.

22.14.4 Execution of the Agreement

[983.153]

The Agreement must be executed promptly after HAFC notice of proposal selection to the selected owner. However, the HAFC will not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HAFC will not enter into the Agreement until the environmental review is completed and the HAFC has received environmental approval.

The HAFC will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

22.14.5 Requirements of Development Work

[983.154]

Labor Standards

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The HAFC must monitor compliance with labor standards.

Equal Opportunity

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR Part 135. The owner must also comply with federal equal employment opportunity requirements.

Disclosure of Conflict of Interest

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

22.15 COMPLETION OF HOUSING

[983.155]

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Required Evidence of Completion

At a minimum, the owner must submit the following evidence of completion to the HAFC in the form and manner required by the HAFC:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the HAFC's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HAFC will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HAFC will specify any additional documentation requirements in the Agreement to enter into HAP contract.

22.16 HAFC ACCEPTANCE OF COMPLETED UNITS

[983.156]

Upon notice from the owner that the housing is completed, the HAFC must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The HAFC must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the HAFC must not enter into the HAP contract.

If the HAFC determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HAFC must submit the HAP contract for execution by the owner and must then execute the HAP contract.

22.17 HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

[983.201 to 983.209]

22.17.1 Overview

[983.202]

The HAFC must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

22.17.2 HAP Contract Requirements

Contract Information

[983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;

- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

22.17.3 Execution of the HAP Contract

[983.204]

The HAFC will not enter into a HAP contract until each contract unit has been inspected and the HAFC has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the HAFC selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HAFC has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

For existing housing, the HAP contract will be executed within 10 business days of HAFC determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of HAFC determining that the units have been completed in accordance with the Agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

22.17.4 Term of HAP Contract

[983.205]

The HAFC will enter into a HAP contract with an owner for an initial term of no less than one year and no more than fifteen (15) years.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

The HAFC may agree to enter into an extension at the time of the initial HAP contract or any time before expiration of the contract for an additional term of up to fifteen (15) years. For example, the HAFC may execute an initial HAP Contract good for 15 years for project-based units, and a separate HAP Contract granting an extension of another 15 years. When determining whether or not to extend an expiring PBV contract, HAFC will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

22.17.5 Termination by HAFC

[983.205(c)]

The HAP contract must provide that the term of the HAFC's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HAFC in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the HAFC may terminate the HAP contract by 60-day notice to the owner. The termination must be implemented in accordance with HUD instructions.

22.17.6 Termination by Owner

[983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the HAFC. In this case, families living in the contract units must be offered tenant-based assistance.

22.17.7 Remedies for HQS Violations

[983.207(b)]

The HAFC will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the HAFC determines that a contract does not comply with HQS, the HAFC may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HAFC will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 10, regarding enforcing owner compliance.

22.18 AMENDMENTS TO THE HAP CONTRACT

[983.206]

22.18.1 Substitution of Contract Units

At the HAFC's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the HAFC must inspect the proposed unit and determine the reasonable rent for the unit.

22.18.2 Addition of Contract Units

At the HAFC's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the HAFC's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HAFC will consider adding contract units to the HAP contract when the HAFC determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- a. The local housing inventory is reduced due to a disaster (either due to loss

of housing units, or an influx of displaced families)

- b. Voucher holders are having difficulty finding units that meet program requirements.

22.18.3 HAP Contract Year, Anniversary and Expiration Dates

[983.206(c)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

22.19 OWNER RESPONSIBILITIES UNDER THE HAP

[983.208 to 983.209]

The owner is responsible for performing all the owner responsibilities under the Agreement and the HAP contract. 24 CFR 982.452 (Owner responsibilities) applies.

By execution of the HPA contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HAFC, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the

spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

Additional HAP Requirements

Housing Quality and Design Requirements [983.207]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the HAFC and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The HAFC may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HAFC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HAFC will specify any special design standards or additional requirements in the invitation for PBV proposals, the Agreement, and the HAP contract.

22.20 TENANT SELECTION AND OCCUPANCY

[983.251]

22.20.1 Selection of PBV Program Participants

Overview

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the ~~waiting~~[interest](#) list. Even with these similarities, there are requirements that are unique to the PBV

program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

22.20.2 Eligibility for PBV Assistance

[983.251(a)]

The HAFC will select families for the PBV program from those who have applied for admission to the voucher program. As with the tenant-based voucher program, eligibility for admission must be determined at the time of the formal application interview.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the HAFC, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the HAFC's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

HAFC will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 4 (Eligibility for Admission) of this Administrative Plan.

22.20.3 In-Place Families

[983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the HAFC is considered an in-place family. These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family will be placed on the HAFC's waitinginterest list even if the waitinginterest list is closed. Once the family's continued eligibility is determined (the HAFC may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the HAFC must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

22.20.4 Selection from the WaitingInterest List

[983.251(c)]

HAFC will establish and manage separate interest lists for individual projects that are receiving PBV assistance.

Applicants who will occupy units with PBV assistance must be selected from the HAFC's interest list. The HAFC will establish a separate interest list for PBV units, and will establish separate interest lists for PBV units in particular projects. The interest list may establish criteria or preferences for occupancy of particular units. The HAFC will offer to place applicants who are listed on the tenant-based interest list on the interest list for PBV assistance.

The HAFC selects families from the interest list according to the date and time of the pre-application, unless the lottery or random selection method is used, in which case, pre-applications will be randomly selected per bedroom size from the interest list. Preferences will be applied when either method is used.

~~Applicants who will occupy units with PBV assistance must be selected from the HAFC's waitinginterest list. The HAFC will establish a separate waitinginterest list for PBV units, and will establish separate waitinginterest lists for PBV units in particular projects. The waitinginterest list may establish criteria or preferences for occupancy of particular units.~~

~~The HAFC will offer to place applicants who are listed on the tenant-based waitinginterest list on the waitinginterest list for PBV assistance.~~

~~HAFC will establish and manage separate waitinginterest lists for individual projects that are receiving PBV assistance.~~

In selecting families to occupy PBV units with special accessibility features for persons with disabilities, HAFC must first refer families who require such accessibility features to the owner, per 24 CFR 8.26 and 100.202.

22.20.5 Referred by PBV Owner or for Limited Preference PBV Voucher Allocations

PBV Owner Referral

The HAFC will place families referred by the PBV owner on its PBV [waitinginterest](#) list in order of date and time of referral.

Limited Preference PBV Voucher Referral

Periodically HAFC has the opportunity to target PBV's for special needs populations. HAFC would enter into a Memorandum of Understanding to provide supportive housing in collaboration with another local agency which would provide supportive services for the special population. In the Memorandum of Understanding the two organizations would identify referral criteria and set the roles needed to ensure eligibility requirements are met.

At the time the project [waitinginterest](#) list is offered, applicants on the tenant-based [waitinginterest](#) list will be given the opportunity to be added to the project [waitinginterest](#) list. Additionally referrals would come directly from the collaborating agency to be added to the project [waitinginterest](#) list. Families who meet the criteria would be given first preference for the limited preference units.

22.20.6 Income Targeting

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the HAFC's fiscal year. ELI families are those with annual incomes as defined in Section 4.10 of this Administrative Plan.. To ensure this requirement is met, a HAFC may skip non-ELI families on the [waitinginterest](#) list in order to select an ELI family.

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

22.20.7 Units with Accessibility Features

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HAFC must first refer families who require such features to the owner.

22.20.8 Preferences

The PBV program and the tenant-based program in terms of local preferences are the same, unless the PBV Property serves a targeted population. The procedures will follow the property's management plan.

The HAFC must provide an absolute selection preference for eligible in-place families as described in 24 CFR 983.251(b). HAFC will provide a selection preference:

- when required by the regulation (e.g. eligible in-place families),
- qualifying families for excepted units, and
- mobility-impaired persons for accessible units.

The other preferences are the same as the Tenant Based Assistance Program.

- Veterans of U.S. Armed Forces, which is required by state law.
- Elderly or Disabled
- Residency

All are the same as defined in Chapter 3 of this Administrative Plan.

~~The PBV program differs from the tenant-based program in terms of local preferences.~~

~~The HAFC must provide an absolute selection preference for eligible in-place families as described in 24 CFR 983.251(b). HAFC will provide a selection preference:~~

~~when required by the regulation (e.g. eligible in-place families),
qualifying families for excepted units, and
mobility-impaired persons for accessible units.~~

~~The only additional preference will be for veterans of U.S. Armed Forces (same as defined in Chapter 3 of this Administrative Plan), which is required by state law.~~

Preference for Services Offered

[24 CFR 983.251(d)]

HAFC may give preference to disabled families who need services offered at a particular project. Such preference must be in accordance with the limits listed here:

The preference is limited to:

- The population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

22.20.9 Offer of PBV Assistance

[983.251(e)]

Refusal of Offer

The HAFC is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

Refuse to list the applicant on the waitinginterest list for tenant-based voucher assistance;

Deny any admission preference for which the applicant qualifies;

Change the applicant's place on the waitinginterest list based on preference, date, and time of application, or other factors affecting selection under the HAFC's selection policy;

Remove the applicant from the tenant-based voucher waitinginterest list.

22.20.10 Disapproval by Landlord

[983.251(e) (2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection will not affect the family's position on the tenant-based voucher waitinginterest list.

22.21 ACCEPTANCE OF OFFER

[983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the HAFC will give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the HAFC must provide a briefing packet that explains how the HAFC determines

the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Information Packet

HAFC will provide each family attending the briefing with a packet which contains the following information:

- (1) How HAFC determines the total tenant payment for a family;
- (2) Family obligations under the program; and
- (3) Applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the HAFC must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. The HAFC's reasonable accommodation policy is outlined in Chapter 1 of this Administrative Plan. In addition, the HAFC must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The HAFC takes reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. This policy is described in Chapter 20.

22.22 OWNER SELECTION OF TENANTS

[983.253]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)], and provide a copy to the HAFC.

Leasing

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the HAFC from the HAFC's waiting interest list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the HAFC's subsidy standards.

22.23 VACANCIES

22.23.1 Filling Vacancies

[983.254]

The owner must promptly notify the HAFC of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HAFC must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HAFC and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify HAFC in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The HAFC will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

22.23.2 Reduction in HAP Contract Units Due to Vacancies

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the HAFC may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

If any contract units have been vacant for 120 days, HAFC will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The HAFC will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the HAFC's notice.

22.24 TENANT SCREENING

[983.255(a)]

22.24.1 HAFC Responsibility

The HAFC is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

HAFC will screen applicants prior to offering a voucher according to Chapter 4 and Chapter 15, and may deny applicants based on such screening.

The HAFC must provide the owner with an applicant family's current and prior address (as shown in HAFC records) and the name and address (if known by the HAFC) of the family's current landlord and any prior landlords.

HAFC will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

In addition, the HAFC will apply the same policies regarding providing information the HAFC may have about a family, directly to the owner as described below. A statement of the HAFC's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family. The HAFC must give the same types of information to all owners.

HAFC will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HAFC will orally provide the following information (for the last 5 years, providing the information is in the tenant file) to the owner, based on documentation in its possession:

- Eviction history
- Damage to rental units
- Other aspects of tenancy history (e.g., 3-Day Notices).

22.24.2 Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families and individuals the owner will consider the background of the proposed tenants with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

- Compliance with other essential conditions of tenancy.

22.25 LEASE

[983.256]

After an applicant has been selected from the waiting interest list, determined eligible by the HAFC, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

22.25.1 Form of Lease

The tenant and the owner must enter into a written lease agreement, approved for use in the State of California that is executed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a HAFC model lease.

HAFC will not review the owner's lease for compliance with state or local law.

22.25.2 Lease Requirements

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- The amount of any charges for food, furniture, or supportive services; and
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner.

22.25.3 Tenancy Addendum

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the HAFC (the names of family members and any HAFC-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease.

The terms of the tenancy addendum prevail over other provisions of the lease.

22.25.4 Initial Term and Lease Renewal

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for good cause, or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HAFC must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

22.25.5 Changes in the Lease

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HAFC a copy of all changes.

The owner must notify the HAFC in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the HAFC and in accordance with the terms of the lease relating to its amendment. The HAFC must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

22.26 MOVES

[983.257 to 983.261]

22.26.1 Owner Termination of Tenancy

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for good cause does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

22.26.2 Tenant Absence from the Unit

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HAFC Policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

22.26.3 Security Deposits

The owner may collect a security deposit from the tenant.

HAFC will allow the owner to collect a security deposit amount that is not in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The HAFC has no liability or responsibility for payment of any amount owed by the family to the owner.

22.26.4 Over-crowded, Under-Occupied, and Accessible Units

[983.259]

If the HAFC determines that a family is occupying a wrong size unit, based on the HAFC's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the HAFC must promptly notify the family and the owner of this determination, and the HAFC must offer the family the opportunity to receive continued housing assistance in another unit.

HAFC will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the HAFC's determination. The HAFC will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project

PBV assistance in another project

Tenant-based voucher assistance

If the HAFC offers the family a tenant-based voucher, the HAFC must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HAFC).

If the HAFC offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the HAFC, or both, the HAFC must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HAFC.

When HAFC offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30 day time frame, the HAFC will terminate the housing assistance payments at the expiration of this 30-day period.

The HAFC may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

22.26.5 Family Right to Move

[983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the HAFC. If the family wishes to move with continued tenant-based assistance, the family must contact the HAFC to request the rental assistance prior to providing notice to terminate the lease.

Project-based participants may be eligible to move when all of the following are true: a) PBV participant must have fulfilled the project-based voucher lease for a minimum time required; typically 12 months; b) PBV participant has no outstanding debts to the owner and/or HAFC; and c) PBV participant has given advance notice of intent to vacate to the owner and HAFC.

The above policies do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence. If he or she remained in the dwelling unit, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

If a family breaks up as a result of an occurrence of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, the PHA may offer the victim the opportunity for continued tenant-based rental assistance.

If the family terminates the lease in accordance with these requirements, the HAFC is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the HAFC must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

22.26.6 Exceptions to the Occupancy Cap

[983.261]

The HAFC will not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined in Section 22.11.9 of this chapter. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the HAFC and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a qualifying family in connection with the 25 percent per building cap exception (e.g. the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within ninety calendar days, and the HAFC must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the HAFC.

22.27 RENT TO OWNER (HOUSING ASSISTANCE PAYMENTS)

[983.301 to 983.305]

22.27.1 Determining Rent to Owner: Overview

[983.301(a)]

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual

amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

22.27.2 Rent Limits

[983.301(b)]

The rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HAFC, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

22.27.3 Use of FMRs, Exception Payment Standards, and Utility Allowances

[983.301(f)]

When determining the initial rent to owner, the HAFC must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the HAFC must use the most recently published FMR and the utility allowance schedule in effect at the time of reexamination. At its discretion, the HAFC may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for reexaminations of rent, the 30-day period immediately before the reexamination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

Likewise, the HAFC will not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Upon written request by the owner, the HAFC will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or reexamination of rent. The owner must explain the need to use the

previous FMR's or utility allowances and include documentation in support of the request. HAFC will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HAFC may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or reexamination of rent, if the HAFC determines it is necessary due to budgetary constraints.

22.27.4 HAFC-Owned Units

[983.301(g)]

See *Project-Based Vouchers and HAFC-Owned Units* of this Chapter for information regarding rents for HAFC-owned PBV units.

22.27.5 Reexamination of Rent

[983.302]

The HAFC must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

22.27.6 Rent Increase

If an owner wishes to request an increase in the rent to owner from the HAFC, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by the HAFC. The HAFC will only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g. adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

An owner's request for a rent increase must be submitted to the HAFC 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HAFC will not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

22.27.7 Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment

standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment. However, in the HAFC's sole discretion, the HAP contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial HAP contract covering the unit.

22.27.8 Notice of Rent Change

The rent to owner is redetermined by written notice by the HAFC to the owner specifying the amount of the redetermined rent. The HAFC notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HAFC will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

22.28 REASONABLE RENT

[983.303]

At the time the initial rent is established and all times during the term of the HAP contract the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the HAFC.

22.28.1 When Rent Reasonable Determinations are Required

The HAFC must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HAFC approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

22.28.2 How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this

determination, the HAFC must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

In the case of dwelling units receiving low-income housing tax credits (LIHTC), the rent is considered reasonable if it does not exceed the greater of (1) the rent for other LIHTC assisted units in the project not occupied by families with tenant-based assistance, or (2) the payment standard established by the HAFC for a unit of the size involved.

22.28.3 Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the HAFC. The comparability analysis may be performed by HAFC staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

22.28.4 Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HAFC may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

22.28.5 Determining Reasonable Rent for HAFC-Owned Units

[983.303(f)]

See *Project-Based Vouchers and HAFC-Owner Units* of this Chapter.

22.29 EFFECT OF OTHER SUBSIDY AND RENT CONTROL

[983.304]

22.29.1 Other Governmental Subsidies

At its discretion, a HAFC may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other

subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;

- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

- A Section 221(d)(3) below market interest rate (BMIR) project;

- A Section 515 project of the Rural Housing Service;

- A project receiving low-income housing tax credits;

- Any other type of federally subsidized project specified by HUD.

22.29.2 Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

22.29.3 Rent Control

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

22.30 PAYMENTS TO OWNER

22.30.1 Housing Assistance Payments for Occupied Units

[983.351]

During the term of the HAP contract, the HAFC must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the HAFC agree on a later date.

Except for discretionary vacancy payments, the HAFC will not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the HAFC is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all

provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

22.31 VACANCY PAYMENTS

[983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HAFC determines that the vacancy is the owner's fault.

If HAFC determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, HAFC will notify the landlord of the amount of housing assistance payment that the owner must repay. The HAFC will require the owner to repay the amount owed in accordance with Chapter 18 of this administrative plan.

At the discretion of the HAFC, the HAP contract may provide for vacancy payments to the owner. The HAFC may only make vacancy payments if:

- The owner gives the HAFC prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the HAFC to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the HAFC and must provide any information or substantiation required by the HAFC to determine the amount of any vacancy payment.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified HAFC of the vacancy in accordance with the policy in this Administrative Plan regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and HAFC may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HAFC within 10 business days of the request, no vacancy payments will be made.

22.32 TENANT RENT TO OWNER

[983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HAFC in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HAFC notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the HAFC is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the HAFC. The owner must immediately return any excess payment to the tenant.

22.32.1 Tenant and HAFC Responsibilities

THE FAMILY IS NOT RESPONSIBLE FOR THE PORTION OF RENT TO OWNER THAT IS COVERED BY THE HOUSING ASSISTANCE PAYMENT AND THE OWNER MAY NOT TERMINATE THE TENANCY OF AN ASSISTED FAMILY FOR NONPAYMENT BY THE HAFC.

Likewise, the HAFC is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HAFC is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HAFC will not use housing assistance payments or other

program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

22.32.2 Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the HAFC must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

HAFC will make utility reimbursements to the family.

22.33 OTHER FEES AND CHARGES

[983.354]

22.33.1 Meals and Supportive Services

The owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

22.33.2 Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

CHAPTER 23: PROGRAM INTEGRITY

23.1 INTRODUCTION

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Fraud and abuse by a participant or applicant therefore, may constitute an intentional misrepresentation of income, assets, and allowances, or intentional misrepresentation of family composition or initiating and participating in bribes or other illegal activities. Intentional may mean a claim that a participant or applicant *knows or has reason to know* is false, fictitious, or fraudulent. *Knows or has reason to know* may mean a person acts in deliberate ignorance of the truth or acts in reckless disregard of the truth or falsity of the claim or statement.

23.2 CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

The HAFC does not intend to undertake an inquiry or an audit of a participant family arbitrarily. The HAFC's expectation is that families will comply with HUD requirements, provisions of the lease, and other program rules. The HAFC staff will make an effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the HAFC has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor tenants' lease obligations for compliance and, when indicators of possible abuse come to the HAFC's attention, to investigate such claims.

The HAFC may initiate an investigation of a participant family in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips: Referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a participant family is in noncompliance with, or otherwise violating the lease or the program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable

Internal File Review: If the HAFC staff discovers (as a function of a (re)certification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the HAFC's knowledge of the family, or is discrepant with statements made by the family.

Verification or Documentation: If the HAFC receives independent verification or documentation, which conflicts with representations in the participant family file (such as public record information, credit bureau reports, or reports from other agencies).

23.3 STEPS TO HELP PREVENT PROGRAM ABUSE AND FRAUD

Management and program staff utilize various methods and practices (listed below) to help prevent program abuse, noncompliance, and willful violations of

program rules by applicants and participant families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by participant families.

- Things You Should Know (HUD-1140-OIG): This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all participant families / applicants to promote understanding of program rules, and to clarify the HAFC's expectations for cooperation and compliance.
- Program Orientation Session: Mandatory orientation sessions will be conducted by HAFC staff for all prospective participant families either prior to or upon execution of the lease. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Things You Should Know" (HUD-1140-OIG) form to confirm that all rules and pertinent regulations were explained to him/her regarding fraud and abuse.
- Participant Family Counseling: HAFC staff will routinely provide participant family counseling as a part of the recertification interview in order to clarify any confusion pertaining to program rules and requirements.
- Use of Instructive Sign and Warnings: Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.
- Review and Explanation of Forms: During interviews, when such are conducted, staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

23.4 STEPS TO DETECT PROGRAM ABUSE AND FRAUD

HAFC staff will be trained to maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Prior to initial certification, and at the completion of all subsequent recertifications, each family file will be reviewed. Such reviews may include, but are not limited to:

- Changes in reported Social Security Numbers or dates of birth.
- Authenticity of file documents.
- Ratio between reported income and expenditures.
- Review of signatures for consistency with previously signed file documents.
- Assurance that verification of all income and deduction is present.

Observation. Management and program staff will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income and assets.

Public Record Bulletins. Reviewed by management and staff.

State Wage Data Record Keepers. Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

Credit Bureau Inquiries. Credit Bureau inquiries may be made in the following circumstances:

- Application Process.
- Annual Re-certification/Interim
- When an allegation is received by the HAFC wherein unreported income sources are disclosed.
- When a family's expenditures exceed his/her reported income, and no plausible explanation is given.

Enterprise Income Verification (EIV) Inquiries. Enterprise Income Verification is a system that enables PHAs to verify participant reported income and identify households that may have under reported the households' annual income. EIV inquiries may be made in the following circumstances:

- Annual Re-certification.
- Interim Recertification
- When an allegation is received by the HAFC wherein unreported income sources are disclosed.
- When a family's expenditures exceed his/her reported income, and no plausible explanation is given.

23.5 THE HAFC'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

HAFC staff will encourage all families to report suspected abuse to the HAFC. All allegations, complaints and tips will be carefully evaluated in order to

determine if they warrant follow-up. They will only review allegations, which contain one or more independently verifiable facts.

Preliminary File Review

An internal file review will be conducted to determine if the subject of the allegation is a participant family of a Housing Programs Department assisted program and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if the HAFC is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review

If, at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, HAFC staff will initiate an investigation to determine if the allegation is true or false.

Interviews with Head of Household and/or Family Members

The HAFC staff person will discuss the allegation (or details thereof) with the head of household and/or family members by scheduling an appointment at the HAFC's Central Office. If necessary, an additional staff person may attend such interviews. If appropriate, current consent for release of information forms will be obtained to assist in the HAFC review.

Enterprise Income Verification (EIV) Inquiries

The HAFC will conduct Enterprise Income Verification inquiries to identify households that may have under reported their household's annual income.

23.6 HOW THE HAFC REVIEWS ALLEGATIONS OF ABUSE AND FRAUD

If the HAFC determines that an allegation or referral warrants follow-up, HAFC staff will conduct the review. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the HAFC will ensure, where required, that a written authorization from the program participant for the release of information has been obtained.

Credit Bureau Inquiries (CBIs) In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity which conflicts with the reported income of the family.

IRS Request for IRS Returns or W-2's may be required.

Verification of Credit In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers Employers or ex-employers may be contacted to verify wages, which may have been previously undisclosed or misreported.

Neighbors/Witnesses Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HAFC's review.

Other Agencies Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records If relevant, the HAFC will review public records kept in any jurisdictional courthouse or county recorder's office. Examples of public records which may be checked are: real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

23.7 PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HAFC

Documents and other evidence obtained by the HAFC during the course of an investigation. Will be considered "work product" and will be kept in a separate "work file." The work file will be kept locked. Such cases under review will not be discussed among the HAFC staff unless they are involved in the process, or have information, which may assist in the investigation.

The HAFC will maintain a Fraud Database System (FDS), which will document the status of the cases and additional information in order to provide a tracking device for all fraud cases. Access of the FDS will be limited to the Executive Director, Chief of Staff, the Senior Manager of Housing Programs, and/or their designees.

In addition, the HAFC will track all repayment agreements resulting from an investigation to ensure families are staying current on their repayment agreements.

23.8 EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the HAFC staff will review the facts to determine:

- The type of violation (non-compliance, fraud).

- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the tenant?
- If the family is eligible for continued assistance.

Intentional Misrepresentations

When a family falsifies, misstates, omits or otherwise misrepresents a material fact, an evaluation will determine whether or not:

- The family had knowledge that his/her actions were wrong, and
- That the family willfully violated a program requirement, a Family Obligation, or committed a serious violation of the lease.

Knowledge that the Action or Inaction Was Wrong

This will be evaluated by determining if the family was made aware of program requirements and prohibitions. The family's signature on various certifications, briefing certificate, Personal Declaration and *Things You Should Know* are adequate to establish knowledge of wrongdoing.

The Family Willfully Violated the Law

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the family of the misrepresentation.
- That the act was done repeatedly.
- If a false name or Social Security Number was used.
- If there were admissions to others of the illegal action or omission.
- That the family omitted material facts, which were known to them (e.g., employment of self or other household member).
- That the family falsified, forged or altered documents.
- That the family conveyed and certified to statements during a rent (re)determination which were later independently verified to be false.

23.9 NOTIFICATION OF INVESTIGATION RESULTS

The family will be notified by mail of the proposed action no later than ten (10) business days after the conclusion of the Family Conference advising the family that:

- Fraud or misrepresentation was found, and intent to terminate assistance will begin
- Fraud or misrepresentation was found, and restitution is due to the HAFC.

Where due process is required, the notice to the family will comply with the policy in the Appeals/Grievance chapter of this Plan giving the family 10 business days by which to request an appeal. If the family does not reply in this timeframe, the HAFC will proceed to issue the Final Termination Notice.

23.10 DISPOSITIONS OF CASES INVOLVING MISREPRESENTATIONS

In all cases of misrepresentations involving efforts to recover monies owed, the HAFC may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Civil Remedies: The HAFC may:

- Terminate tenancy and demand payment of restitution in full.
- Terminate assistance and execute an administrative repayment agreement in accordance with the HAFC's Repayment Policy.
- Terminate assistance and/or pursue restitution through civil litigation.
- Terminate assistance and seek recovery through garnishment of wages or other forms of collection.
- Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the HAFC's repayment policy.

Criminal Referral: If the HAFC believes that the case meets the criteria established by the HAFC for prosecution, the HAFC may refer the case to other enforcement agencies.

Termination by the HAFC

In any event, and at the sole discretion of the HAFC, the HAFC may terminate rental assistance for a material breach of the application for discovery of material false statements or fraud, including but not limited to misrepresentation of facts, omitted pertinent information, or failure to inform Management of information it requires for an annual re-certification or interim adjustments, by the family or family member in connection with an application for assistance, with re-certification, or reexamination of income.

23.11 FRAUD AND PROGRAM ABUSE RECOVERIES

[24 CFR 982.163; 24 CFR 792.202; 24 CFR 982.555]

The HAFC may retain a portion of program fraud losses that the HAFC recovers from a family or owner through litigation, court order, or a repayment agreement.

The HAFC must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. Regulations at 24 CFR 792.202 permit the HAFC to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the HAFC incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing.

If HUD incurs costs on behalf of the HAFC related to the collection, these costs must be deducted from the amount retained by the HAFC.

23.12 OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

23.13 OWNER REIMBURSEMENT TO THE HAFC

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the HAFC any excess subsidy received. The HAFC may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the HAFC may allow the owner to pay

in installments over a period of time.

In cases where the owner has received excess subsidy, the HAFC will require the owner to repay the amount owed in accordance with the policies in Chapter 18.

23.14 PROHIBITED OWNER ACTIONS

An owner participating in the HCV program must not:

- Make any false statement to the HAFC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the HAFC
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the HAFC Board of Commissioners, employees, contractors, or other HAFC representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HAFC
- Residing in the unit with an assisted family

23.15 REMEDIES AND PENALTIES PERTAINING TO THE OWNER PROGRAM ABUSE

When the HAFC determines that the owner has committed program abuse, the HAFC may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 18.
- Terminate the HAP contract (See Chapter 14).

- Bar the owner from future participation in any HAFC programs.
- Refer the case to state or federal officials for criminal prosecution as described in this chapter.

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CHAPTER 24: EIV SECURITY POLICIES AND PROCEDURES

24.1 PRIVACY PROTECTION POLICY

The HAFC accesses upfront income verification data through HUD's Enterprise Income Verification (EIV) System. The HAFC is required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g., electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification Data*. The HAFC has adopted and implemented EIV security procedures required by HUD as described in this chapter.

EIV tenant data will be used only to verify a resident's eligibility for participation in the Housing Choice Voucher Program and Low Income Public Housing to determine the level of assistance for which tenant is eligible.

24.2 PRIVACY ACT

Data provided via the EIV System will be protected to ensure that information is used only for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. Privacy of data and data security for computer systems are covered by a variety of Federal laws and regulations. The Privacy Act of 1974 as amended, 5 U.S.C. 552(a) is one such regulation.

Appendix 1 of the Housing Authorities of the City and County of Fresno EIV Security Policies and Procedures manual is a summary of the safeguards of the Privacy Act.

In compliance with HUD requirements, the HAFC will implement three types of safeguards, **technical safeguards, administrative safeguards, and physical safeguards.**

24.3 TECHNICAL SAFEGUARDS

The purpose of the Technical Safeguards is to:

- Reduce the risk of a security violation related to the EIV system's software, network, or applications
- Identify and authenticate all users seeking access to the EIV data
- Monitor the user activity on the EIV system

Description of the Technical Safeguards includes two types of controls built into the EIV system:

- User Identification and Authentication
- Each user is required to have their own User ID and Password

- The User ID identifies the program administrators and tenant information that the user is authorized to access
- Passwords are encrypted and the password file is protected from unauthorized access
- The system forces all users to change their password every 21 days and limits the reuse of previous passwords
- After three unsuccessful attempts to log in, the User ID is locked and the user has to contact the PIH Security Administrator or the PIH User Administrator for further instructions.
- Online User Alerts
- Online Warning messages that inform user of the civil and criminal penalties associated with unauthorized use of the UIV data

24.4 PHYSICAL SAFEGUARDS

The purpose of Physical Safeguards is to:

- Provide barriers between unauthorized persons and documents containing private data and computer media containing files that contain private data
- Provide immediate notification, noticeable under normal operating conditions, if the barrier is penetrated by unauthorized persons
- Prevent viewing or sensing of private information by any person by any means from outside the area confined by the barrier

Physical Safeguards

- Locked and monitored buildings, offices, or storage rooms
- Locked and monitored metal file cabinets
- Designated secure areas and equipment
 - Security rooms or locked office space with limited (minimum required) points of entry (e.g., doors)
 - Security rooms or locked office space with limited (minimum required) means of entry (e.g., keys)
 - Restricted areas with prominently posted signs or other indicators identifying them and limited points of entry
 - Physical and administrative means for monitoring access to the secure areas and access and use of the protected data
 - Restricted use printers, copiers, facsimile machines, etc.
- Secure computer systems and output
 - Retrieve all computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers
 - Avoid leaving a computer unattended with UIV data displayed on the screen
 - Staff is prohibited from downloading UIV data information into computer or a CD.

- Secure disposal of UIV information
 - It is the PHA's policy and procedures to shred all UIV information upon purging tenant file.

24.5 ADMINISTRATIVE SAFEGUARDS

Purposes of the administrative safeguards:

- Ensure all users who have access to EIV data have an Access Authorization form signed by the Executive Director of the Housing Authority on File
- Ensure all users who access the EIV system have a current signed Rules of Behavior and User Agreement on file
- Conduct quarterly reviews of all User IDs to determine if the user still has a valid need to access the EIV data, and
- Ensure the access rights are modified or revoked as appropriate.

The PIH Security Administrator and the PIH User Administrator will maintain the following security records and forms:

- EIV Rules of Behavior and User Agreement forms
- EIV Access Authorization Forms
- EIV Disposal records list
- EIV Security violation information
- Key control logs for secure areas or filing cabinets
- EIV Security Awareness Training records
- Records of internal audits to ensure that the Form HUD-9886 has been signed by each adult member of the household and is kept in the Confidential Tenant File.
- A record of all users who have approved access to EIV data including the date the access was granted and the date access was terminated
- Monitor User Session and Activity Report
- Monitor the Tenant Data Access Audit Report

24.6 CONDUCTING SECURITY AWARENESS TRAINING

Conducting security awareness training will:

- Ensure that all users of UIV data receive training in UIV security policies and procedures at the time of employment and at least annually afterwards
- Maintain a record of all personnel who have attended training sessions
- Communicate security information and requirements to appropriate personnel using various methods including discussions at group and managerial meetings and security bulletins posted throughout the work areas
- Distribute all User Guides and Security Procedures to personnel using UIV data

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24.7 REPORTING OF PROPER DISCLOSURES

These security violations may include the disclosure of private data as well as attempts to access unauthorized data and the sharing of User IDs and passwords. Upon the discovery of a possible improper disclosure of UIV information or another security violation by a program administrator employee or any other person, the individual making the observation or receiving the information should contact the PIH Security Administrator or the PIH User Administrator. The Security Administrator or the User Administrator or designated staff should document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred regardless if the security violation was intentional or unintentional.

The following contacts should be made:

- The program administrator security officer should contact and provide the HAFC Executive Director or the designee with the written documentation; and
- The HAFC Executive Director or the designee should provide the HUD Field Office Public Housing Director with the written documentation

24.8 ENFORCEMENT

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

24.9 SAFEGUARDS PROVIDED BY THE PRIVACY ACT

The Privacy Act provides safeguards for individuals against invasion of privacy by requiring Federal agencies, except as otherwise provided by the law or regulation to:

- Permit individuals to know what records pertaining to them are collected, maintained, used or disseminated;
 - Allow individuals to prevent records pertaining to them, obtained for a particular purpose from being used or made available for another purpose without their consent;
 - Permit individuals to gain access to information pertaining to them, obtain a copy of all or any portions thereof, and correct or amend such records;
 - Collect, maintain, use or disseminate personally identifiable information in a manner that ensure the information is current and accurate, and that adequate safeguards are provided to prevent misuses of such information;
 - Permit exemption from the requirements of the Act only where an important public policy need exists as determined by specific statutory authority; and
-
- Be subject to a civil suit for any damages that occur as a result of action

that violates any individual's rights under this Act.

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CHAPTER 25: HOMELESS INITIATIVE PROGRAMS AND PARTNERSHIPS

The Housing Authority of Fresno County (HAFC) periodically has the opportunity to either apply for or partner with community agencies to receive targeted funding for special populations. The programs covered in this chapter refer to the following:

- California Work Opportunity and Responsibility to Kids (CalWORKs) Housing Support Program (HSP)
- Housing Opportunities for Persons with AIDS (HOPWA)
- HOME Tenant Based Rental Assistance (TBRA)
- Fresno Madera Continuum of Care (FMCoC) Partnerships

Specific criteria related to these programs are covered in the chart below.

Outreach responsibility for these programs may occur through the Fresno Madera Continuum of Care (FMCoC) Coordinated Entry System or direct referral from FMCoC partners. Pre-application may be completion of the Vulnerability Index Services Prioritization Decision Assistance Tool (VI-SPDAT) or the Family Vulnerability Index Services Prioritization Decision Assistance tool (F-VI-SPDAT).

Pre-Entry Factors Related to Homeless Initiatives Programs and Partnerships				
Program Specific Criteria	CalWORKs HSP	HOPWA	HOME TBRA	FMCoC Partnerships
Eligibility Criteria	<ul style="list-style-type: none"> DSS determination of families with children enrolled in or eligible for CalWORKs assistance Eligible CalWORKs families who are homeless or at risk of homelessness 	<ul style="list-style-type: none"> Household in which one member has a medical diagnosis of HIV /AIDS Income must be below 80% AMI Must be homeless or at risk of homelessness 	<ul style="list-style-type: none"> Individuals/families who are homeless, at risk of homelessness or transitioning from a homeless assistance program Income must be 60% AMI 	<ul style="list-style-type: none"> Literally or chronic homeless as defined by HUD, 24 CFR 578.3
Outreach Responsibility	Department of Social Services (DSS) (primary) & HAFC (secondary)	WestCare California (WC-CA) primary; HAFC (secondary)	FMCoC Coordinated Entry System (primary); HAFC (secondary)	FMCoC Coordinated Entry System
Partnership or MOU?	MOU between HAFC & DSS	MOU between HAFC and WC-CA	MOU between Fresno County and HAFC	MOU between FMCoC partner and HAFC
Requires Referral? Y/N	Yes	Yes. Referral Form WC-CA	Yes, Coordinated Entry System	Yes, Coordinated Entry System
Referral Process	Referrals made by DSS Homeless Assistance Unit	WC-CA refers HOPWA-eligible household	Referral from the Coordinated Entry System	Referral from the Coordinated Entry System
Placed on HCV Waiting List?	No	No	No	No
Selection from the HCV Waiting List	N/A	N/A	N/A	N/A
Must Meet HCV Voucher Eligibility? Y/N	No	No	No	No
Program-Specific Screening Criteria Y/N	Yes - May not admit families who are not enrolled in or eligible for CalWORKs assistance as defined by DSS	Yes – household must meet medical diagnosis of target population	Yes, homeless status and 60% AMI	Yes, homeless status are defined by HUD, 24 CFR 578.3

Participant-Related Factors for Homeless Initiative Programs and Partnerships				
Program Specific Criteria	CalWORKs	HOPWA	HOME TBRA	FMCOC
Certificate Expiration	N/A	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days
Portability Option? Y/N	No, family must live within the County of Fresno	No, families must live within Fresno County	No, families must live within Fresno County	No, families must live within the County of Fresno
Program Specific Grounds for Termination of Assistance	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.

CHAPTER 26: TARGETED PROGRAMS

The Housing Authority of Fresno County (HAFC) periodically has the opportunity to apply for targeted funding for special populations. The programs covered in this chapter refer to the following:

- Veteran's Affairs Supportive Housing (VASH) program
- Family Unification Program (FUP)
- Non-Elderly Disabled (NED) Program
- Mainstream 5 Program
- FSS & FUP Demonstration Program
- Project Basing Special Purpose Vouchers

Specific criteria related to these programs are covered in the charts below.

Continued Assistance for Targeted Programs – FUP and VASH

Targeted Programs refers to special purpose vouchers operated within the Housing Choice Voucher program and are intended to serve specific subpopulations and often correspond with supportive services. Although most of these programs provide ongoing housing assistance as long as the household is income eligible, some have an expiration period or can terminate eligibility if supportive services or funding cease to exist. HAFC recognizes that this practice could potentially result in homelessness or other unstable living conditions, therefore, will exercise the option to continue assistance to such populations under the Housing Choice Voucher program. This option will be available to Targeted Programs such as, but not limited to:

- Family Unification Program – FUP
- Veteran Affairs Supportive Housing Program – VASH

To ensure that housing assistance opportunities remain available for all waitlisted applicants, continued assistance to targeted program participants will be limited to 50 slots per year.

In an effort to align with voucher utilization goals, continued assistance for targeted program participants (except FUP-Youth) will only be considered when 1) the program making the request is at 98% utilization or above; 2) tenant-based vouchers are available; and 3) the transfer would not result in over-leasing under the tenant-based voucher program. Exception to FUP-Youth is made due to time-limited clause for program participation. The intent of providing the continued assistance option is to:

- Create attrition and availability of targeted program vouchers to targeted subpopulations with special needs.
- Allow participants who no longer require the supportive services to retain housing, but still need rental subsidy, the opportunity to “graduate” from a targeted program to the next level towards independence.
- Provide continuity and housing stability for youth who have an expiring FUP voucher.

Family Self-Sufficiency & Family Unification Program-Youth Demonstration

The Family Self-Sufficiency (FSS) and Family Unification Program –Youth (FUP_Y) demonstration target youth aging out of foster care the opportunity to extend the 18-month statutory time limit to match the length of the FSS program contract of participation of 5 years. The purpose of the FSS and FUP demonstration is to increase opportunities for housing youth aging out of foster care by providing extending support to achieve self-sufficiency.

Assistance for Targeted Participants – Limited Preference Homeless Program

The HAFC has also set aside approximately 160 vouchers (Chapter 2, Section 2.5.7) for the purposes of a limited preference homeless program. The program target families (includes individuals) throughout Fresno County. Pre-selected service providers refer all eligible families to the HAFC.

This program was designed to support local homeless assistance strategies by providing tenant-based HCV assistance to families currently participating in a transition plan administered by community-based organizations in the local homeless Continuum of Care and pre-selected homeless prevention initiatives.

Eligibility criteria for referral will be developed by the referring agency in conjunction with HAFC. Referred families will be placed on the HCV waiting list

and codes as "HCVH". When funding is available selection from the waiting list will be by code "HCVH" according to the date and time of the referral.

In addition to meeting the criterion for referral, families must meet income and other voucher eligibility requirements for the tenant-based Housing Choice Voucher program.

Family Right to Move – Project-Based Vouchers (PBV)

As mentioned in Chapter 22; Section 22.26.5, PBV participants have a right to move after 12 months of continued assistance. PBV participants have priority in the right to move provided that the following are true: a) PBV participant must have fulfilled the project-based voucher lease for a minimum of 12 months; b) PBV participant has no outstanding debts to the owner and/or HAFC; c) PBV participant has given advance notice of intent to vacate to the owner and HAFC; and d) there are no participants from aforementioned targeted programs who have formally expressed interest in a voucher.

The HAFC shall establish a waitlist for PBV applicants in the event that demand is higher than tenant-based vouchers available and will draw from the list based on date and time of application.

Family Right to Move - Project-Based Rental Assistance (PBRA)

Under the Rental Assistance Demonstration (RAD) Program participants who are assisted under the Project-Based Rental Assistance (PBRA) have a Choice-Mobility option, as defined under the PBRA program. Typically, these participants have a right to move with continued assistance to the tenant-based voucher program after 24 months, subject to tenant-based voucher availability.

PBRA participants will have the lowest priority in obtaining a tenant-based voucher after a) PBRA participant must have fulfilled the project-based rental assistance lease for a minimum of 24 months; b) PBRA participant has no outstanding debts to the owner and/or HAFC; c) PBRA participant has given advance notice of intent to vacate to the owner and HAFC; d) there are no participants from aforementioned targeted programs who have formally expressed interest in a voucher; e) there are no participants from PBV program who have formally expressed interest in a voucher.

The HAFC shall establish a waitlist for PBRA applicants in the event that demand is higher than tenant-based vouchers available and will draw from this list based on date and time of application. HAFC will also limit PBRA Choice-Mobility vouchers to the lower of 1/3 of turnover vouchers or 15% of the project's assisted units.

Project-Basing Special Purpose Vouchers (FR Notice 1/18/2017)

FH may consider project-basing HUD-VASH vouchers and/or Family Unification Program (FUP) vouchers without requiring additional HUD approval. PIH Notice 2015-10 requires that PHAs wishing to project-base HUD-VASH vouchers meet certain requirements in order to do so, however, those PBV requirements are now superseded by the statutory amendments made by the Housing Opportunity and Through Modernization Act (HOTMA). HOTMA also allows PHAs to project-base vouchers awarded to the PHA for the FUP program without further approval from HUD.

Pre-Entry Factors Related to Targeted Programs					
Program Specific Criteria	VASH	FUP	FSS & FUP-Youth Demo	NED	Mainstream5
Eligibility Criteria	<p>VAMC Determination of Veteran status by VAMC. They are also responsible for documenting homelessness according to McKinney Vento HAFC.</p> <ul style="list-style-type: none"> Income eligibility; up to 50% AML Citizenship Verification Criminal Background Check for Lifetime Sexual Offender 	<ul style="list-style-type: none"> Families for whom lack of adequate housing is a primary factor in the separation or threat of imminent separation of a child or children from their families Youths (18-21 years old) who left foster care at age 16 or older and lack adequate housing Families or youths displaced by domestic violence and lack adequate housing 	<ul style="list-style-type: none"> Must enroll in the FSS program and sign a contract of participation of up to 5 years. Must participate simultaneously in both the FSS and FUP-Youth Youth 18-21 years old (has not reached 22nd birthday) who left foster care at age 16 or older and lack adequate housing Youth displaced by domestic violence and lack adequate housing 	Disabled non-elderly family. According to HUD definition, a disabled family is that in which the head, co-head, or spouse is disabled.	Elderly disabled or non-elderly disabled family. According to HUD definition, a disabled family is that in which the head, co-head, or spouse is disabled.
Outreach Responsibility	VAMC (primary) & HAFC (secondary)	HAFC and Department of Social Services (DSS)	HAFC and Department of Social Services (DSS)	HAFC	HAFC
Partnership or MOU?	MOU between HAFC & VAMC	MOU between HAFC and DSS	MOU between HAFC and DSS	N/A	N/A
Requires Referral? Y/N	Yes	Yes. Referral Form DSS	Yes. Referral Form DSS	No	No

Program Specific Criteria	Pre-Entry Factors Related to Targeted Programs				
	VASH	FUP	FSS & FUP-Youth Demo	NED	Mainstream5
Pre-Application Process	Handled by VAMC	HCV Pre-Application and Referral Form	HCV Pre-Application and Referral Form	Disabled family must complete a HCV Pre-Application Form.	Disabled family must complete a HCV Pre-Application Form.
Referral Process	Referrals are made by Healthcare for Homeless Veterans Program. Handled by VAMC <ul style="list-style-type: none"> VAMC Social Worker refers VASH eligible households HAFC notifies VAMC when a voucher is vacated. VAMC maintains the waitlist of pre-screened applicants 	DSS refers FUP-eligible families or youth by submitting a completed FUP Referral Form and HCV Pre-application Form	DSS refers FUP-eligible youth by submitting a completed FUP Referral Form and HCV Pre-Application Form	N/A	N/A
Placed on HCV Waiting List?	No. VAMC maintains waitlist	<ul style="list-style-type: none"> Yes. FUP eligible families and youth are placed on HCV waiting list and coded as "FUPF" and "FUPY" respectively. HAFC will check to see if the referred family/youth is on existing HCV waiting list and code them accordingly. 	<ul style="list-style-type: none"> Yes. FUP eligible youth are placed on HCV waiting list and coded FUPY HAFC will check to see if the referred youth is on existing HCV waiting list and code them accordingly If FUP-eligible youth are not on the existing open HCV waiting list, HAFC will add 	<ul style="list-style-type: none"> Yes, coded "NED" If the existing HCV waiting list is closed and there is availability of NED voucher(s) for non-elderly disabled families, HAFC may open the HCV waiting list to accept NED program- specific HCV pre-applications and code them accordingly. 	<ul style="list-style-type: none"> Yes, coded "MS5" If the existing HCV waiting list is closed and there is availability of Mainstream voucher(s) for disabled elderly and disabled non-elderly families, HAFC may open the HCV waiting list to accept Mainstream program- specific HCV pre-applications and

Pre-Entry Factors Related to Targeted Programs					
Program Specific Criteria	VASH	FUP	FSS & FUP-Youth Demo	NED	Mainstream5
		<ul style="list-style-type: none"> If FUP-eligible families or youths are not on the existing open HCV waiting list, HAFC will add the family/youth on the HCV waiting list in date and time order of the referral and code them accordingly. If the existing HCV waiting list is closed and there is availability of FUP voucher(s), HAFC will open the HCV waiting list to accept FUP program-specific HCV pre-applications. 	<p>the youth on the HCV waiting list in date and time order of the referral and code them accordingly</p> <ul style="list-style-type: none"> If the existing HCV waiting list is closed and there is availability of FUP voucher(s), HAFC will open the HCV waiting list to accept FUP program-specific HCV pre-applications. 		code them accordingly.
Selection from the HCV Waiting List	N/A	<p>HAFC will select from the tenant-based waiting list according to date and time of FUP referrals.</p> <p>HAFC may pull only FUP program-specific applicants in date and</p>	<p>HAFC will select from the tenant-based waiting list according to date and time of FUP referrals.</p> <p>HAFC may pull only FUP youth program-specific applicants in date and time order of the referral.</p>	<p>HAFC will select from the tenant-based waiting list according to date and time of HCV pre-application.</p> <p>HAFC may pull NED program specific applicants from the waiting list in date and time order.</p>	<p>HAFC will select from the tenant-based waiting list according to date and time of HCV pre-application.</p> <p>HAFC may pull MS5 program specific applicants from the waiting list in date and time order.</p>

Pre-Entry Factors Related to Targeted Programs					
Program Specific Criteria	VASH	FUP	FSS & FUP-Youth Demo	NED	Mainstream5
Must Meet HCV Voucher Eligibility? Y/N	Yes, except will be required to undergo criminal background check only regarding registered sex offenders.	time order of the referral. Yes. Must meet income and other voucher eligibility requirements. If requirements are not met, the FUP-eligible family or youth will not be eligible to be placed back on the HCV waiting list.	Yes. Must meet income and other voucher eligibility requirements. If requirements are not met, the FUP-eligible youth will not be eligible to be placed back on the HCV waiting list.	Yes. Must meet income and other voucher issuance eligibility <u>and</u> the non-elderly disabled family requirements for the NED program. If the family does not meet the NED program eligibility requirements and was allowed to submit a HCV pre-application during a program specific opening of the HCV waiting list, they will be removed from the HCV waiting list. If the family submitted a HCV pre-application during an open HCV waiting list, they will be allowed to remain on the existing HCV waiting list in date and time order with the rest of the HCV applicants.	Yes. Must meet income and other voucher issuance eligibility <u>and</u> the disabled elderly or the non-elderly disabled family requirements for the Mainstream5 program. If the family does not meet the Mainstream5 program eligibility requirements and was allowed to submit a HCV pre-application during a program specific opening of the HCV waiting list, they will be removed from the HCV waiting list. If the family submitted a HCV pre-application during an open HCV waiting list, they will be allowed to remain on the existing HCV waiting list in date and time order with the rest of the HCV applicants.
Program-Specific Screening Criteria Y/N	Required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. (24 CFR 982.553(2))	No. FUP-eligible family or youth must meet all HCV screening criteria	No. FUP-eligible youth must meet all HCV screening criteria	No. NED program eligible family must meet all HCV screening criteria	No. Mainstream5 eligible family must meet all HCV screening criteria

Participant-Related Factors for Targeted Programs					
Program Specific Criteria	VASH	FUP	FSS & FUP Demo	NED	Mainstream5
Voucher Expiration	120 Days	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days
Portability Option? Y/N	Yes, there are two types of portability for HUD-VASH: (1) Type 1. Type 1 is for a Veteran or Veteran's family who wishes to live in a town within the catchment area of the VA medical center that is outside the area covered by the PHA where the voucher is allocated. The Veteran must be able to continue with case management services provided by the VA medical center to port the voucher. The PHA covering the area where the Veteran chooses to live would receive the voucher and would follow HUD rules for administering this voucher. (2) Type 2. Type 2 is for a Veteran or Veteran's family accepted into HUD-VASH who wishes to move outside of the catchment area to another jurisdiction where it is not possible for the admitting VA medical center to provide case management services. The VA medical center working with the Veteran must first determine that the Veteran's family could be served by another HUD-VASH Program in the area where the Veteran wishes to live and the receiving PHA must have a HUD-VASH voucher available for this family. The families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH Program), or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction).	Yes, same as HCV	Yes, same as HCV	Yes, same as HCV	Yes, same as HCV

Participant-Related Factors for Targeted Programs					
Program Specific Criteria	VASH	FUP	FSS & FUP Demo	NED	Mainstream5
	Upon absorption, the first PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family and the absorbed family counts toward the number of HUD-VASH slots awarded to the receiving PHA. The receiving PHA must process this move in accordance with the portability procedures.				
Program Specific Grounds for Termination of Assistance	Families that fail to comply with case management requirements as determined by the VAMC must be terminated from the voucher program. Any violation of the Statement of Family Obligations as referenced in Chapter 15, Section 15.4 can result in termination. Terminations from case management will result in termination from the voucher program.	No. Case management for youth must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	FUP-youth participating in the FSS & FUP demo fails to comply with the terms and conditions of the FSS Contract of Participation without good cause (see Chapter 16 Sections 16.6.2 and 16.6.3 for good cause) and is terminated from the FSS program, the FUP youth is no longer considered a participant in the demonstration. With termination, the FUP youth is subject to the statutory time limit of 18 months, beginning from the time the first HAP contract is signed. If the FUP youth has been assisted for more than 18 months, HAFC will terminate assistance to the FUP youth household.	No.	No.

CHAPTER 27: VIOLENCE AGAINST WOMEN ACT & DOMESTIC VIOLENCE

27.1 INTRODUCTION

Title VI of the Violence Against Women Act (VAWA) adds a new housing provision that establishes several categories of protected individuals. Under the law victims of domestic violence, dating violence, stalking, and victims of sexual assault are granted protections, and cannot be denied or terminated from housing or housing assistance because of activity that is directly related to domestic violence.

27.1.1 Purpose

The purpose of this policy is to reduce domestic violence, dating violence, sexual assault, and stalking and to prevent homelessness by:

- protecting the safety of victims;
- creating long-term housing solutions for victims;
- building collaborations among victim service providers; and
- assisting the PHA to respond appropriately to the violence while maintaining a safe environment for the PHA, employees, tenants, applicants, Housing Choice Voucher participants, and others.

The policy will assist the HAFC in providing rights under the Violence Against Women Act to its applicants, public housing residents, Housing Choice Voucher participants and other program participants.

This policy is incorporated into the HAFC's "Admission and Continuing Occupancy Policy", and "Housing Choice Voucher Program Administrative Plan" and applies to all PHA housing programs.

27.1.2 Definitions

The definitions in this Section apply only to this policy.

Actual or imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual or imminent threat, the factors to be considered include: The duration of the risk; the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Affiliated individual means a spouse, parent, brother, sister, child or a person to whom the tenant stands in the place of a parent or guardian, or any individual, tenant, or other lawful occupant living in the tenant's household.

Confidentiality: The PHA will not enter information provided to the PHA by a victim alleging domestic violence into a shared database or provide this information to any related entity.

Dating Violence: Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship.

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim or intimate partner of the victim, committed by a person with whom the victim shares a child in common, committed by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, committed by a person similarly situated to a spouse of the victim under the domestic or family violence laws of California, or committed by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of California.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Immediate Family Member: A spouse, parent, brother or sister, or child of a victim or an individual to whom the affiliated individual; or any other person living in the household of the victim and related to the victim by blood or marriage.

Perpetrator: A person who commits an act of domestic violence, dating domestic violence or stalking against a victim.

Safe Unit: refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

Stalking: (a) to follow, pursue or repeatedly commit acts with the intent to kill,

injure, harass or intimidate the victim; (b) to place under surveillance with the intent to kill, injure, harass or intimidate the victim; (c) in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place the victim in reasonable fear of the death of, or serious bodily injury to the victim.

Sexual Abuse: To cause substantial emotional or physical harm to the victim, an affiliated individual of the victim or the spouse or intimate partner of the victim.

Sexual Assault: Any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

Bona Fide Claim: A bona fide claim of domestic violence, dating violence or stalking must include incidents that meet the terms and conditions in the above definitions.

27.1.3 Certification and Confidentiality

The person claiming protection under VAWA shall provide complete and accurate certifications to a PHA owner or manager within 14 business days after the party requests in writing that the person completes the certifications. If the person does not provide a complete and accurate certification within the 14 business days a PHA owner or manager may take action to deny or terminate participation or tenancy. Mitigating circumstances will be considered in any case where the person or family did not submit or could not submit documentation timely. Additional time may be granted to a family on a case by case basis.

27.1.4 HUD Approved Certification

For each incident that a person is claiming as abuse, the person may certify to the PHA, owner or manager, their victim status by completing a HUD approved certification (form HUD-5382). The person shall certify the date, time and description of the incidents, that the incidents are bona fide incidents of actual or threatened abuses and meet the requirements of VAWA and this Policy. The person shall provide information to identify the perpetrator including but not limited to the name and, if known, all alias names, date of birth, address, contact information such as a postal, e-mail or internet address, telephone or facsimile number or other identification if it is safe to provide and is known to the victim.

27.1.5 Other Certification

A person who is claiming victim status may provide to the PHA, an owner or manager: (a) documentation signed by the victim and an employee, agent or volunteer of a victim service provider, an attorney, record of administrative agency, mental health professional or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking or the effects of the abuse, in which the professional attests under penalty of perjury the professional's belief that the incident(s) in question are bona fide incidents of abuse; or (b) a federal, state, tribal, territorial, local police or court record. Additional information may be requested for additional clarification purposes.

27.1.6 Confidentiality

The PHA and the owner and managers shall keep all information provided to the PHA under this section confidential. The PHA and owner and manager shall not enter the information into a shared database or provide to any related entity except to the extent that:

- the victim requests or consents to the disclosure in writing;
- the disclosure is required for eviction from public housing and/or termination of Housing Choice Voucher assistance; or
- the disclosure is required by applicable law.

27.1.7 Appropriate Basis for Denial of Admission, Assistance, or Tenancy

PHA shall not deny participation or admission to a program on the basis of a person's abuse status, if the person otherwise qualifies for admission of assistance.

An incident or incidents of actual or threatened domestic violence, dating violence, stalking, or victims of sexual assault will not be a serious or repeated violation of the lease by the victim and shall not be good cause for denying to a victim admission to a program, terminating Public Housing assistance or occupancy rights, or evicting a tenant.

Criminal activity directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant's family is the victim of that domestic violence, dating violence or stalking.

Nothing in the previous sections shall limit the PHA's authority to propose termination of assistance of any participant for any violation of program Family

Obligations not premised on the act or acts of violence against the participant or a member of the participant's household. However, the PHA may not hold a victim to a more demanding standard.

Nothing in the previous sections shall limit the PHA's authority to propose termination of assistance, or deny admission to a program, if the PHA can show an actual and imminent threat to other tenants, neighbors, guests, their employees, persons providing service to the property or others if the participant family is not terminated from assistance or denied admission.

Nothing in the previous sections shall limit the PHA's authority to deny admission or terminate the assistance of a person who engages in criminal acts including but not limited to acts of physical violence or stalking against family members or others.

A Housing Choice Voucher participant who moves out of an assisted dwelling unit to protect their health or safety and who: (a) is a victim under this policy; (b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and (c) has complied with all other obligations of the Housing Choice Voucher program may receive a voucher and move to another Housing Choice Voucher jurisdiction.

27.1.8 Actions Against a Perpetrator

The PHA may take action against a perpetrator of domestic violence; however, the survivor of domestic violence may take action to control or prevent the violence, sexual assault, dating violence, or stalking. The action may include but is not limited to: (a) obtaining and enforcing a restraining or no contact order or order for protection against the perpetrator; (b) obtaining and enforcing a trespass against the perpetrator; (c) enforcing PHA or law enforcement's trespass of the perpetrator; (d) preventing the delivery of the perpetrator's mail to the victim's unit; (e) other reasonable measures.

27.1.9 PHA Right to Terminate Housing and Housing Assistance Under this Policy

Nothing in this Policy will restrict the PHA's right to terminate program assistance for program violations by a participant who claims VAWA as a defense if it is determined by the PHA that such a claim is not credible. Nothing in this policy will restrict the PHA's right to terminate program assistance if the participant (a) allows a perpetrator to violate a court order relating to the act or acts of violence; or (b) if the participant allows a perpetrator who has been barred from assisted unit to come onto the assisted unit including but not limited to the assisted unit's immediate vicinity under their control.

Nothing in this policy will restrict the PHA's right to terminate housing assistance if the participant who claims as a defense to an eviction or termination action relating to domestic violence has engaged in fraud and abuse against a federal housing program; especially where such fraud and abuse can be shown to have existed before the claim of domestic violence was made. Such fraud and abuse includes but is not limited to unreported income; unauthorized household members; and/or ongoing violations of program Family Obligations.

27.1.10 *Statements of Responsibility of Participant, the PHA to the Victims, and to the Larger Community*

A participant has no less duty and responsibility under the program Family Obligations to meet and comply with the terms of the program than any other participant not making such a claim. Ultimately, all participants must be able to take personal responsibility for themselves and exercise control over their households in order to continue their housing and housing assistance. The PHA will continue to address all participants who violate their Family Obligations including those who claim a defense of domestic violence. The PHA recognizes the pathologic dynamic and cycle of domestic violence and will work with victims of domestic violence partnering with other local victim support service providers and can refer the participant to the service providers when requested.

27.1.11 *Notice to Applicants, Participants and Tenants*

The PHA shall provide notice to applicants, participants, tenants, and managers of their rights and obligations under VAWA, including the right to confidentiality when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefits and within the 12 month period following December 16, 2016, either during the annual recertification process or lease renewal process, whichever is applicable. Tenant will also be provided with HUD form-5382 and Notice of Occupancy Rights Under VAWA.

27.1.12 *Reporting Requirements*

The PHA shall include in its 5-year plan a statement of goals, objectives, policies or programs that will serve the needs of victims. PHA shall also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to victims, to help victims obtain or maintain housing or to prevent the abuse or to enhance the safety of victims.

27.1.13 Conflict and Scope

This Policy does not enlarge the PHA's duty under any law, regulation or ordinance. If this policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this policy conflicts with another PHA policy, this Policy will control.

27.2 MOVES

A family may receive a voucher from a PHA and move under the tenant-based assistance program if the family has complied with all other obligations of the HCV Program and/or has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was actually or imminently threatened by harm or further violence if he or she remained in the assisted dwelling unit.

During the initial term of the lease, the family may move with a signed mutual agreement with the landlord to terminate the lease. The family must give the owner at least 30 days written notice of intent to vacate as specified by applicable law and must simultaneously give a copy to the PHA. The notice must be submitted to the PHA no later than the date the family submits a Request for Tenancy Approval (RFTA).

If the family's annual recertification is due within 120 days, the recertification will be expedited. If the family reports a change in income or family composition prior to the submission of a Request for Tenancy Approval (RFTA), the move process will be stopped and the reported change in income or family composition will be reviewed to determine whether the family remains eligible for the voucher size it has been issued, or if the change will result in the family paying more than 40% of their monthly adjusted income toward rent. As these are required by regulation, they cannot be waived, however, the recertification will be expedited in an effort to approve the move more swiftly.

If the family is exercising portability and reports a change, the receiving PHA will first request the initial PHA to complete an interim change. The initial PHA will expedite to not cause a delay in processing the portability.

If the family has missed two (2) consecutively scheduled voucher issuance sessions without good cause, the move request will be canceled. If the family submits a new request to move, the request will be processed timely.

27.3 NON-CITIZEN SELF-PETITIONER VERIFICATION

A. Financial assistance to ineligible noncitizens will not be denied while verifying immigration status.

B. Self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance. “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the HAFCs will make a final determination as to the self-petitioner’s eligibility for assistance.

C. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR (Lawfully Permanent Resident).

D. Once the HAFC receives a self-petition (INS Form I-360 or I-130) or INS Form 797, the HAFC will not request any additional information from the VAWA self-petitioner, other than what is required using the SAVE system to complete the verification.

E. When the HAFC receives a self-petition or INS Form 797 Notice of Action, the HAFC will initiate verification in the SAVE System

F. Final determination from the SAVE System. The HAFC will receive one of two confirmations:

- the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;
- the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to the HAFC any evidence of “battery or extreme cruelty.”

G. Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR (Lawful Permanent Resident) status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the HAFC must alert the petitioner and take actions to terminate voucher/rental assistance or evict the petitioner from public housing/affordable housing program (s) in accordance with the existing public/affordable or governing housing requirements.

APPENDIX A

FRESNO HOUSING AUTHORITIES EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Emergency Transfers

The Housing Authority of Fresno County is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),¹ the HAFC allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.² The ability of the HAFC to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the HAFC has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development

¹ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

(HUD); the Federal agency that oversees that programs such as; Housing Choice Voucher Program (HCV), Project Based Voucher (PBV), Veteran's Affairs Supportive Housing (VASH), HOME Tenant Based Rental Assistance (TBRA), Family Unification Program (FUP), Family Unification Program- Youth(FUP-Y), and Continuum of Care (CoC) administered under the HAFC's Assisted Housing Division (AHD), Low Income Public Housing (LIPH), HOME Investment Partnership (HOME), Multifamily Project Rental Assistance (PBRA), Multifamily Project Based Section 8 operated under the California Finance Housing Agency (CalHFA) programs [HUD Programs] are in compliance with VAWA. Properties operated solely or in conjunction with one or more of the above and/or regulated under the Low Income Housing Tax Credit, (LIHTC) Internal Revenue Code (IRC) Section 42 program (Affordable Housing Program), administered under the Housing Management Division (HMD) are also to maintain compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant or participant shall start by notifying the HAFC of the need to request the emergency transfer by completing the Emergency Transfer Request Form (HUD Form 5383). The HAFC will provide the tenant or participant with information in writing requesting required documentation. The Tenant or Participant will then have fourteen (14) business days to submit one of the four (4) acceptable methods of documentation listed below.

1. HUD-Approved form – by providing to the HAFC or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD Form 5382):

- i. That the individual is a victim of domestic violence, dating violence, sexual assault or stalking;
- ii. That the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definitions set forth in this policy;
- iii. Includes the name of the perpetrator, if the name is known to the tenant or participant and safe to provide.

2. Other Documentation- In lieu of the certification form or in addition to the certification form the HAFC may accept documentation signed by both:

- i. An employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking; and
- ii. The participant or tenant

The documentation shall state, under penalty of perjury, the professional's belief that the incident or incidents in question meet the requirements of the applicable definition(s) set forth in this policy.

3. **Police or Court Record-** by providing to the HAFC or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

4. A statement or other evidence provided by an participant or tenant.

The tenant or participant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant or participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same dwelling unit assisted under the HAFC program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

The HAFC will provide reasonable accommodations to this policy for individuals with disabilities.

Emergency Transfer Timing and Availability

The HAFC cannot guarantee that a transfer request will be approved or how long it will take to process a VAWA emergency transfer request. The HAFC will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the

terms and conditions that govern occupancy in the unit to which the tenant has been transferred.

If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred.

The tenant will be required to provide a good reason for refusing the unit and documentation supporting their good cause reason for refusing the unit. The HAFC may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the HAFC has no safe and available units for which a tenant who needs an emergency is eligible, the HAFC will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the HAFC will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Public Housing Transfer Hierarchy:

Transfers made pursuant to VAWA are considered emergency transfers. Tenants in PHA's Public Housing program who request and are approved for a VAWA emergency transfer will be processed for the transfer in accordance with the PHA's hierarchy of transfers as established in PHA's ACOP 12.1.

Multifamily/Affordable Housing Transfer Hierarchy:

Transfers made pursuant to VAWA are considered emergency transfers. Tenants in the HAFC's Affordable Housing program who request and are approved for a VAWA emergency transfer will be processed for the transfer in accordance with the HAFC's hierarchy of transfers as established in the affordable housing management plan Section 5.5.

Housing Choice Voucher Program Issuance of Voucher:

Participants in PHA's Housing Choice Voucher Program (HCV) who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 13.2.

HUD-VASH Voucher /Program:

Participants in PHA's VASH Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 13.2.

Continuum of Care Program (CoC):

Participants in PHA's CoC Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 17.23.

HOME TBRA Program:

Participants in PHA's HOME Tenant Based Rental Assistance Program who request and are approved for a VAWA related transfer will be processed within the HOME TBRA Program in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 25.

Family Unification Program including FUP-Y:

Participants in PHA's Family Unification Program and Family Unification Program- Youth Programs who request and are approved for a VAWA related transfer will be processed within the in accordance with PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 13.2.

Project-Based Voucher Program (PBV):

Participants in PHA's Project-Based Voucher Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 22.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe. Tenants who are or have been victims of domestic violence are encouraged to contact the **National Domestic Violence Hotline** at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the **Rape, Abuse & Incest National Network's National Sexual Assault Hotline** at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the **National Center for Victims of Crime's Stalking Resource Center** at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Confidentiality

The HAFC will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the HAFC written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new

location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the HAFC responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

DRAFT

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

GLOSSARY

ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)

NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a Receiving PHA stops billing the initial HA for assistance on behalf of a portability family. The Receiving PHA uses funds available under the Receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the HAFC for administration of the program. See §982.152.

Administrative fee reserve (formerly “operating reserve”). Account established by HAFC from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes HAFC policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the HAFC’s board and included as a supporting document to the HAFC Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). The written contract between HUD and a HAFC under which HUD agrees to provide funding for a program under the 1937 Act, and the HAFC agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

“As-paid” States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a HAFC program, budget authority is the maximum amount that may be paid by HUD to the HAFC over the ACC term of the funding increment.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Cooperative member. A family of which one or more members owns membership shares in a cooperative.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship

- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See Person with Disabilities.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Elderly family. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is

assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. Effective July 1, 2014 the definition of Extremely Low Income (ELI) changed to the greater of the Federal poverty level or 30% of Area Median Income. In addition, the new ELI limits cannot exceed the Very Low-Income (VLI) limits; therefore, in some cases the ELI limits are identical to the VLI.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR Part 888.

Family. Refer to Chapter 4, Section 4.3 of this Administrative Plan.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the HAFC under the HAFC subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

First-time homeowner. In the homeownership option: A family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of home ownership assistance for the family. The term "first-time homeowner" includes a single parent of displaced homemaker (as those terms are defined in 12 U.S.C. 12713) who, while married, owned a home with his or her spouse, or resided in a home owner by his or her spouse.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See "Disability Assistance Expense."

HAP contract. Housing assistance payments contract. (Contract). A written contract between the HAFC and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing assistance payment. The monthly assistance payment by HAFC, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency. A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income

- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial HA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting HA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Interest List. A list of applicants wishing to participate in the random lottery/selection process.

Jurisdiction. The area in which the HAFC has authority under State and local law to administer the program.

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the HAFC.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the HAFC to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

Medical expenses. Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

Minor. A member of the family household other than the family head or spouse, who is under

18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of “cooperative.”

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, HAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

HAFC Plan. The annual plan and the 5-year plan as adopted by the HAFC and approved by HUD.

HAFC's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a HAFC supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the HAFC program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the HAFC for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

Portability. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the Initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

Project-Based Vouchers. The Project-based vouchers program is administered by a public housing authority that already administers the tenant-based voucher program. Under the project-based voucher (PBV) program a local housing authority will enter into a contract with an owner for specific units for a specific term in order to 1) expand the affordable housing in the community, and 2) to provide rental assistance for qualifying low-income families. The voucher assistance is attached to the structure, rather than to the tenant, as occurs in the tenant-based voucher program.

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The Receiving PHA issues a voucher and provides

program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A HAFC preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 8 Homeownership Program. The S8 Homeownership option is used to assist existing Housing Choice Voucher (HCV) program participants to purchase a home using mortgage subsidy rather than rental subsidy. Under this subsidy option, HAFC will pay a monthly homeownership assistance payment. For further information, see Chapter 21 of this Administrative Plan.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Shelter Plus Care Program. Not a Section 8 program, this program is funded by grants under the Stewart B. McKinney Homeless Assistance Act. The program is designed to link rental assistance to supportive services for homeless individuals with disabilities and/or their

families.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the HAFC waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by HAFC to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the HAFC decides to allow extensions or suspensions of the voucher term, the HAFC administrative plan must describe how the HAFC determines whether to grant extensions or suspensions, and how the HAFC determines the length of any extension or suspension. This practice is also called "tolling".

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See "Family rent to owner".

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by HAFC or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the HAFC as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. See Chapter 3 of this Administrative Plan regarding for the definition of veteran as it relates to a local preference. See Chapter 4 regarding its definition in regarding the restriction on eligibility of students.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (Housing Choice Voucher). A document issued by HAFC to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for HAFC approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the HAFC waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child

care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the HA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

TERMS SPECIFIC TO THE FAMILY UNIFICATION PROGRAM

FUP DEFINITIONS

The key definitions for the Family Unification Program are:

Lack of Adequate Housing is defined as:

1. A family or youth is living in substandard or dilapidated housing;
2. A family or youth is homeless;
3. A family or youth is in imminent danger of losing their housing;
4. A family or youth is displaced by domestic violence;
5. A family or youth is living in an overcrowded unit; or family or youth is living in housing not accessible for the family's disabled child or children, or to the youth, due to the nature of the disability.

Dilapidated Housing A family or youth is living in a housing unit that is dilapidated if the unit where the family or youth lives does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family or youth, or the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair or from serious damage to the structure.

Displaced by Domestic Violence - A family or youth is displaced by domestic violence if:

- a. The family or youth has vacated a housing unit because of domestic violence; or
- b. The family or youth lives in a housing unit with a person who engages in domestic violence, or lives in a housing unit whose location is known to a person who has engaged in domestic violence, and moving from such housing unit is needed to protect the health or safety of the family or youth.

Domestic Violence means: felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

FUP-Eligible Family - A family that the public child welfare agency (PCWA) has certified as a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care, and that the Public Housing Agency (PHA) has

determined is eligible for a Housing Choice Voucher (HCV).

FUP-Eligible Youth - A youth that the public child welfare agency (PCWA) has certified to be at least 18 years old and not more than 21 years old (has not reached his/her 22nd birthday) who left foster care at age 16 or older and who does not have adequate housing, and that the PHA has determined is eligible for a HCV.

Homeless - A homeless family includes any person (including a youth) or family that:

- a. Lacks a fixed, regular, and adequate nighttime residence; and
- b. Has a primary nighttime residence that is:
 1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
 2. An institution that provides a temporary residence for persons intended to be institutionalized; or
- c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Imminent Danger of Losing Housing - A family or youth is considered to be in imminent danger of losing their housing if the family or youth will be evicted within a week from a private dwelling unit, no subsequent residence has been identified, and the family or youth lacks the resources and support networks needed to obtain housing.

Living in Overcrowded Housing - A family or youth is considered to be living in an overcrowded unit if it meets the following separate criteria for a family or youth as follows:

- a. The family is separated from its child (or children) and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
- b. The family is living with its child (or children) in a unit that is overcrowded for the entire family and this overcrowded condition may result in the imminent placement of its child (or children) in out-of-home care; or the youth is living in a unit that is overcrowded.
- c. The youth is living in a unit that is overcrowded.

For purposes of the above paragraph, the PHA may determine whether the unit is "overcrowded" in accordance with PHA subsidy standards.

Public Child Welfare Agency (PCWA) - Is the public agency that is responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family, or that a youth left foster care at age 16 or older and is at least 18 years old and not more than 21 years old.

Substandard Housing – A family or youth is living in substandard housing if the unit where the family or youth lives:

- a. Is dilapidated;
- b. Does not have operable indoor plumbing;
- c. Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth;
- d. Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth;

- e. Does not have electricity, or has inadequate or unsafe electrical service;
- f. Does not have a safe or adequate source of heat;
- g. Should, but does not, have a kitchen; or
- h. Has been declared unfit for habitation by an agency or unit of government.

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