

HOUSING AUTHORITY OF THE CITY OF FRESNO

2025 ADMINISTRATIVE PLAN

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HOUSING AUTHORITY OF THE CITY OF FRESNO

2024~~5~~ 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 the City of Fresno (hereafter referred to as FH). FH receives its funding for the HCV program from the Department of Housing and Urban Development (HUD); and is currently assisting approximately 7,412 families.

To administer the program, FH enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. FH 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, FH is committed to maintaining compliance with the following:

- PHAs must bring their programs into compliance with the HOTMA final rule as quickly as possible, but no later than January 1, 2025. "Compliance" means administering all aspects of the affected programs in accordance with the HOTMA final rule.
 - PHAs must continue to follow their existing Administrative Plans until the PHA's software is compliant with HIP.
- 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;
- FH is committed to maintaining compliance with federally-protected classes of race, color, sex, religion, familial status, age, disability, or national origin, as well as additional protections afforded under the regulations with regard to gender identity, sexual orientation, and marital status.
- In addition, FH is committed to maintaining compliance with state laws that prohibit housing discrimination based on military status, source of income, ancestry, and/or gender expression.

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1.2 CERTIFICATIONS OF OBLIGATIONS

FH must submit a signed certification to HUD that:

- FH 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.
- FH will affirmatively further fair housing in the administration of the program.

1.3 HOUSING AUTHORITY OVERVIEW

The primary objective of FH 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 the City of Fresno 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 the City of Fresno's Assisted Housing Division (AHD) administers the following voucher programs:

PROGRAM ALLOCATIONS – CITY

HCV VOUCHERS = 7412

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Jurisdiction

The jurisdiction of FH is the City of Fresno.

1.4 LOCAL OBJECTIVES

The primary objective of FH 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, socioeconomic, recreational and other human service needs.
- To create positive public awareness and expand the level of family, owner, and community support in accomplishing FH'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 FH'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.

FH 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 FH Board of Commissioners. A copy of the plan must be provided to HUD.

FH will review and update the Agency Plan at least once a year, and more often if needed, to reflect changes in regulations, FH operations, or when needed to ensure staff consistency in operation. FH 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 FH Agency Plan, and is available for public review as required by CFR 24 Part 903.

1.7 ADMINISTRATIVE FEE RESERVE

[24 CFR 982.155]

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All expenditures from the administrative fee reserve will be approved by FH 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 FH'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 FH 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 FH 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 FH 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

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

The certification must attest to the results of quality control review FH 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 FH performance. For indicators 9 through 14, HUD independently assesses and verifies FH'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.

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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 FH, assign an overall rating, and notify FH 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 FH 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".

FH is required to correct any performance deficiencies within 45 days of notification by HUD. If FH 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

FH 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 FH 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, FH 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, FH used the appropriate utility allowances for the unit leased in determining the gross rent.
- FH 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 FH performs HQS quality control inspections which meet the minimum sample size required by HUD. A supervisor or other qualified person must re-inspect a sample of units under contract from inspections conducted no more than three months prior to the date of the re-inspection. 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, FH ensures timely correction of HQS deficiencies or abates Housing Assistance Payments (HAPs) or takes vigorous action to enforce family obligations.
- Demonstrating that FH 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 FH 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 FH fiscal year was 98% or more, or the percent of allocated budget authority expended during the last FH fiscal year was 98% or more.
- Determining whether FH has filled 80 -100% of its FSS slots.
- Demonstrating whether at least 30% of FH'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, FH 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.

1.11 TERMINOLOGY

[24 CFR 982.4]

The Housing Authority of the City of Fresno is referred to as "FH" 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 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.

FH shall not deny any family or individual the opportunity to apply for or receive assistance under the Housing Choice Voucher Programs on the basis of race, color, sex, religion, creed,

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national or ethnic origin, age, family or marital status, handicap or disability, gender identification, or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, FH 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 FH's facilities are inaccessible to or unusable by persons with disabilities.

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

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

1.13 ACCOMMODATIONS POLICY

[24 CFR 8.28]

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with FH, when FH initiates contact with a family including when a family applies, and when FH 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 FH. FH 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.

FH 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./Deaf & Hard of Hearing Service Center](#)

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

1.13.1 PERSONS WITH DISABILITIES

FH'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 FH forms and letters to all families. Requests may be verified with a reliable, knowledgeable professional so that FH can properly accommodate the need presented by the disability.

1.13.2 FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990

With respect to an individual, the term "disability" means (42 US Code 12102):

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual. The term physical or mental impairment may include, but is not limited to, conditions such as visual or hearing impairment, mobility impairment, HIV infection, intellectual disability, drug addiction (except current illegal use of or addiction to drugs), or mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working; or
- A record of such impairment, or are regarded as having such an 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.

1.13.3 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 (24 CFR Parts 8.3 and 100.201). 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 request 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 nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

1.13.4 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 reliable third party who can verify the need for the accommodation.
- Fresno Housing will [email and/or](#) fax a request to the reliable third party 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.

Requests for an accommodation may be made orally or in writing; however, the better practice is to have the accommodation request in writing for accurate documentation and communication with a reliable third party. 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].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the FH, 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.

1.13.5 APPROVAL/DENIAL OF 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 medical professional, peer support group, non-medical service agency, or reliable and knowledgeable third party. In the absence of a clear nexus, FH 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 FH, 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 FH 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 Senior Manager or 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 FH, simultaneously file an appeal with HUD, FHEO; information about such appeal is available at www.hud.gov/fairhousing.

1.13.6 ADDITIONAL POLICIES REGARDING REASONABLE ACCOMMODATION

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

- Special accommodation when submitting an application (2.2)
- Higher utility allowances as reasonable accommodation for a person with disabilities (6.13.5)
- Special accommodation when requesting an individual HCV briefing (~~8.2.4~~ 8.2.3)
- 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~~ 12.5.1)
- 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 a Balance 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~~ 21.7 and 21.7.2)

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

1.14 LIMITED ENGLISH PROFICIENCY (LEP) TRANSLATION SERVICES

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the housing choice voucher program (HCV). In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

FH 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 policy, LEP persons are HCV applicants and resident families, and parents and family members of applicants and resident families.

The FH is committed to providing meaningful access to the FH's programs and services to all eligible persons, including those who have limited English proficiency because of their national origin. The FH 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 (see Appendix B). The plan details the steps the FH 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.

1.14.1 ORAL TRANSLATION

FH 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, FH will use an online language interpretation service, which offers translation in over 100 languages, to communicate effectively with clients.

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

1.14.2 WRITTEN TRANSLATION

In determining whether it is feasible to provide translation of documents written in English into other languages, FH 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 FH 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.

1.15 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.

FH'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 FH 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.

FH'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.

FH 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.

1.16 FAMILY OUTREACH

[24 CFR 982.266]

FH 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 FH's interest list is open, FH 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.

FH may utilize public service announcements.

FH 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

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make proper referrals for housing assistance.

1.17 OWNER OUTREACH

[24 CFR 982.54(d)(5)]

FH encourages owners of decent, safe and sanitary housing units to lease to Housing Choice Voucher families. Owners may list available units on the Go Section 8 website at www.affordablehousing.com.

The staff of FH 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.

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

FH 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 FH's jurisdiction and given a link to 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.

FH provides a direct phone line and/or email address to handle owner questions and concerns. The Owner Services Division has compiled information regarding commonly asked questions and answers for our website. Owners seeking information or forms can access the website.

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

1.18 VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION ACT OF 2022 (VAWA 2022)

The Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022) is a federal law that protects individuals who are survivors of domestic violence, dating violence, sexual assault, and stalking regardless of sex, sexual orientation, or gender identity. VAWA includes protections for survivors who are applying for or residing in covered housing programs. 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 FH 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 2022 is covered in the following sections in this Administrative Plan:

- Verification under the Violence Against Women Act – See Chapter 7.12
- Request to move related to VAWA – See Chapter 13 13.2 & 13.3.1

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- VAWA and termination of assistance – See Chapter 15.6
- Appendix A

1.19 USE OF HOUSING CHOICE VOUCHER (HCV) AND MAINSTREAM VOUCHER ADMINISTRATIVE FEES FOR OTHER EXPENSES TO ASSIST FAMILIES TO LEASE UNITS.

[PIH Notice 2022-18]

Overview

This notice provides guidance on the use of HCV and Mainstream voucher ongoing administrative fees for expenses related to assisting HCV and Mainstream Voucher families to lease units, including the costs of security deposit assistance and landlord incentive and retention payments.

Fresno Housing may utilize any of the eligible uses listed below.

Eligible Uses of HCV Administrative Fees

Under the appropriations Act, the eligible uses of HCV administrative fees include both (1) costs incurred by a PHA in carrying out administrative responsibilities under HCV program regulations and (2) other eligible expenses in administering the program which are described in this Notice:

a. Administrative activities.

These activities include front-line, day-to-day operational activities including but not limited to applicant intake, lease-up activities, income determinations and reexaminations, unit inspections, disbursing HAP to landlords, as well as policy and operational planning and implementation, financial management, and HCV record-keeping and reporting. These activities also include the indirect overhead activities associated with operating the HCV program including but not limited to PHA management, human resources, legal, finance, accounting and payroll, information technology, procurement, and quality control. PHAs that operate using HUD's asset management central office cost center (COCC) are permitted to charge the HCV program to recover its central office costs, and those costs are eligible expenses of HCV administrative fees. Administrative activities also include housing search assistance activities such as pre-move counseling, helping a family identify and visit potentially available units during their housing search, helping a family find a unit that meets the household's disability-related needs, providing transportation and directions, and assisting with the completion of rental applications. These activities also include post-lease up activities often related to housing search assistance efforts, such as post-move counseling and landlord/tenant mediation. These activities cover HCV owner recruitment and outreach activities, including the costs associated with materials or webpages specifically geared to owners, as well as landlord liaison staff and associated expenses.

b. Other eligible activities.

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PHAs are responsible for carrying out all their administrative responsibilities under the program. In addition to its typical administrative costs, a PHA may choose to incur other expenses for activities designed to help assist HCV families in leasing units under the program, which while not required by HUD HCV regulations, clearly will assist the PHA in achieving the mission and purpose of the HCV program. A PHA may use its administrative fees to support these other activities, including to recruit and retain owners to participate in the HCV program, should it have the resources available to do so.

When undertaking these activities, a PHA must first adopt a policy in the PHA administrative plan that governs the terms and conditions of the activity, including any limitations or eligibility criteria for these activities (e.g., to support families leasing units in areas of opportunity, or to support vulnerable populations such as homeless families, etc.). PHAs are reminded that they may not create policies, criteria, or methods of administration that result in discrimination against individuals with protected characteristics under fair housing and civil rights laws and regulations. As such, PHAs need to provide reasonable accommodations when necessary to policies established for these activities to ensure equal access to their programs and activities by individuals with disabilities. In addition, PHAs need to ensure policies, criteria, and the administration thereof, provides meaningful language access for persons with Limited English Proficiency (LEP).

Other eligible expenses related to the leasing of units and recruitment/retention of HCV owners are as follows:

i. Owner incentive and/or retention payments.

The PHA may make incentive (e.g., signing bonuses) or retention payments to owners that agree to initially lease their unit to an HCV family and/or renew the lease of an HCV family. If a PHA chooses to offer incentive or retention payments, it must adopt a policy that governs when the offer of such payments is appropriate. The PHA may design the owner incentive payments to meet its specific needs (such as limiting the incentive payments to new owners or owners in high opportunity neighborhoods or structuring all or part of the payment as a damages or unpaid rent mitigation fund, where the owner receives the mitigation payment only if the security deposit is insufficient to cover damages and other amounts owed under the lease). The PHA may choose to condition the offer of the owner incentive/retention payment on the owner's agreement to abide by certain terms and conditions. For example, these conditions may include working with the PHA (or intervention services providers partnering with the PHA) should lease violations or other tenant-related issues arise during the assisted tenancy before taking action to evict the tenant.

Owner incentive/retention payments are typically made as a single payment at the beginning of the lease term (or at lease renewal if a retention payment). However, PHAs may establish the frequency upon when such payments may be made with the exception that owner incentive payments may not be made on an ongoing monthly

basis. Owner incentive payments are not housing assistance payments, nor can they effectively serve to supplement ongoing, monthly housing assistance payments. Owner incentive payments are not part of the rent to owner, nor are they taken into consideration when determining whether the rent for the unit is reasonable.

If the PHA chooses to make incentive payments over time to the owner (rather than a single payment) any agreement or understanding between the PHA and the owner must be separate and apart from the housing assistance payments (HAP) contract, and the HAP contract may not be conditioned or amended to make any reference to that agreement or any future landlord incentive or retention payment.

ii. Security deposit assistance.

The PHA may provide security deposit assistance for the family. The amount of the security deposit assistance may not exceed the actual security deposit required by the owner or the maximum security deposit allowed under applicable state and/or local law. The PHA may pay the security deposit directly to the owner or may pay the assistance to the family provided the PHA verifies the family paid the security deposit.¹ The PHA may place conditions on the security deposit assistance, such as requiring the owner or family to return the security deposit assistance to the PHA at the end of the family's tenancy (less any amounts retained by the owner in accordance with the lease). Security deposit assistance returned to the PHA remains restricted to HCV administrative fee eligible uses (if returned before the end of the PHA fiscal year in which the administrative fee used to fund the deposit was received) or HCV administrative fee reserve eligible uses, as applicable.

iii. Utility deposit assistance/utility arrears.

The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The PHA may choose to pay the utility deposit assistance directly to the utility company or may pay the assistance to the family, provided the PHA verifies the family paid the utility deposit.² The PHA may place conditions on the utility deposit assistance, such as requiring the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier.) In addition, some families may have large balances with gas, electric, water, sewer, or trash companies prior to admission to the HCV program that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA may also provide the family with assistance to help address these utility arrears to facilitate leasing and their admission to the HCV program.

Utility deposit assistance that is returned to the PHA remains restricted to HCV administrative fee eligible uses (if returned before the end of the PHA fiscal year in

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which the administrative fee used to fund the deposit was received) or HCV administrative fee reserve eligible uses, as applicable.

- iv. Application fees/non-refundable administrative or processing fees/refundable application deposit assistance/broker fees.

The PHA may choose to assist the family with some or all of these expenses and may limit the amount of assistance provided for each individual expense.

- v. Holding fees.

In some markets, it is not uncommon for an owner to request a holding fee that is rolled into the security deposit after an application is accepted but before a lease is signed. The PHA may cover part or all of the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The PHA and owner must agree how the holding fee gets rolled into the deposit and under what conditions the fee will be returned. Furthermore, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspection and can only keep the holding fee if the family is at fault for not entering into the lease.

- vi. Renter's insurance if required by the lease.

The PHA may assist the family with some or all of the cost of renter's insurance but only in cases where the purchase of renter's insurance is a condition of the lease and is also required of unassisted families on the premises. PHAs need to exercise caution with respect to the frequency of when the renter's insurance assistance payments are made when such assistance is provided directly to the family.⁴ For example, providing such assistance on a regular, recurring basis (such as on a monthly basis) to the family would impact the family's income calculation.

Funds in the PHA administrative fee reserve may also be used for any of the above activities. In addition, the PHA may use outside sources of funds to cover these activities provided that these activities are eligible uses of those funds. Outside sources of funds would include non-restricted Federal funds, eligible State or local funds, and donations from philanthropic parties. For PHAs participating in the Moving-to-Work (MTW) program, fungible Public Housing Operating and Capital funds are also acceptable sources of funds for these activities (in accordance with MTW program requirements). Except for MTW PHAs, HCV housing assistance payments (HAP) funding may not be used to pay for these activities.

Mainstream Voucher Administrative Fees – Other Expenses

Paragraph (4) under the TBRA heading in the 2022 Act, which provides HAP and administrative fee funding for Mainstream vouchers, also makes reference to "other" expenses. Specifically, paragraph (4) provides that "administrative and other expenses of public housing agencies in administering the special purpose vouchers shall be funded under the same terms and be

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subject to the same pro rata reduction as the percent decrease for administrative and other expenses to public housing agencies under paragraph (3) of this section...” Consequently, PHAs are also authorized to use Mainstream administrative fees for the other eligible activities listed in section 3.b of this notice to assist Mainstream voucher families to lease units. Mainstream administrative fees may only be used for Mainstream vouchers. PHAs may not use Mainstream administrative fees to cover administrative expenses or other expenses of the PHA in administering regular vouchers or other special purpose vouchers. Likewise, PHAs may not use regular HCV administrative fees to cover Mainstream voucher administrative expenses or other expenses of the PHA in administering Mainstream vouchers. As is the case for regular HCV HAP funding, Mainstream HAP funding may not be used to pay for any of these other activities.

▲ Reporting Other Expenses in the Voucher Management System (VMS) and Financial Assessment Subsystem for Public Housing (FASS-PH)/Financial Data Schedule (FDS)

- a. VMS reporting. The new authorized expenses listed in this notice that are incurred by the PHA each month and paid with ongoing administrative fees are reported as part of the total expenses in the VMS “Administrative Expense” field. There is no separate field currently for reporting these other expenses.
- b. FDS reporting. In general, the new authorized expenses listed in this notice are reported on FDS Line 92400 Tenant services – other. However, with respect to the fees used for deposits, a PHA may account for these deposits in different ways: as an expense to a balance sheet only transaction, or with the cash outlay for the deposits treated as an accounts receivable and allowance for doubtful accounts being established. The accounting treatment is typically based on the PHA’s and its auditor’s interpretation of Generally Accepted Accounting Principles (GAAP) for these deposit transactions and individual state law, with only limited deposits ever coming back to the PHA. Therefore, HUD will not require any specific FDS reporting for ongoing administrative fees used for deposits as long as the accounting and reporting conforms to GAAP.

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CHAPTER 2: APPLICATIONS AND INTEREST LIST

[24 CFR 982.201-207]

2.1 INTRODUCTION

The policy of FH 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 interest list is open, families wishing to participate in the housing choice voucher program must submit a pre-application providing all information requested by FH. This information allows FH to place each applicant on the 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 may take place as needed.

*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 interest list. It explains the outreach approach and describes how FH accepts pre-applications and how FH maintains the interest list. The policies that guide FH are outlined and 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 FH policies on how to notify the public of the opening and closing of the interest list. It also describes how an applicant may apply for rental assistance.

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

2.2 OPENING AND CLOSING OF INTEREST LIST

[24 CFR 982.205(a)(1), 982.206, 982.54(d)(1)]

Single Interest/Waiting List FH uses the same applicants for its City and County Housing Choice Voucher programs. The use of a single interest/waiting list will reduce burden and avoid confusion for applicants in the process of applying for HCV assistance. Managing a single interest/waiting list also reduces administrative burden by allowing staff to perform other application functions, such as issuing vouchers more expeditiously. Selected applicants who meet eligibility requirements will be issued a voucher and may lease up in either the city

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or county of Fresno regardless of receiving a City or County HCV voucher.

Public Notice

FH 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 pre-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 interest list 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, FH will apply the same advertising methods of broad general circulation for closing the interest list as were used for opening of the interest list.

Site-based Project-Based Vouchers (PBV) When FH opens a site-based interest/waiting list for PBV units, all new applicants and families or individuals currently on FH's tenant-based interest/waiting list will be provided with the option to have their names placed on the list as well. As described in Notice PIH 2011-54, *Guidance on the Project-Based Voucher Program*, PHAs do not have to notify each family on the tenant-based waiting list by individual notice. FH will notify these applicants by the same means it would use in opening its interest list.

Referral-based Project-Based Vouchers (PBV). FH accepts applications by direct referral for project-based units specifically designated for persons experiencing homelessness, chronic homelessness or at risk of chronic homelessness, and/or persons with severe mental illness by direct referral from the Coordinated Entry System (CES) managed by the Fresno Madera Continuum of Care (FMCoc) or other community partners for specific projects. The Public Notice will clearly state that referrals must come from CES or other sources when applicable.

2.3 FAMILY OUTREACH

[24 CFR 982.266]

FH 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 FH's interest list is open, FH 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. FH 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.

FH shall not deny any family or individual the opportunity to apply for or receive assistance under the Housing Choice Voucher Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, gender identification, or sexual orientation.

2.5 HOW TO APPLY

FH is permitted by HUD to determine the format and content of pre-applications. For the purpose of establishing an interest list, pre-applications will be accepted from any family wishing to apply for Housing Choice Voucher rental assistance. FH 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 FH announces its intent to open the 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, FH will accommodate the request without verifying the disability. Specific instructions for making a reasonable accommodation request will be included in the public notice and other pre-application outreach materials.

FH 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.

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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. FH 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 FH 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 FH program funding that is targeted for families living in specified units:

- FH must use the assistance for the families living in these units.
- FH may admit a family that is not on FH waiting list.
- FH 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 HAP voucher 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

FH 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

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procedures will be identified in the automated system and are not maintained on separate waiting lists.

Refer to [Special Purpose Vouchers](#) chapter

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2.5.6 SEPARATE INTEREST LISTS FOR HOUSING AUTHORITY PROGRAMS

In accordance with HUD regulations (24 CFR 982.205 (a)(2)(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. FH will notify these applicants by the same means it would use when opening its interest list.

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SECTION TWO: MANAGING THE INTEREST LIST

2.6 APPLICATION

[24 CFR 982.204]

Pre-applications will include the following information for the head of household and/or spouse/co-head:

- Social Security number
- First, middle initial and last name
- Date of birth
- Gender
- Race
- Ethnicity

Other information:

- The applicant may also provide the information stated above for other household members.
- The applicant may also identify whether any household member is a person with disabilities and/or a person with a mobility impairment needing an accessible unit (wheelchair accessible).
- Applicant Contact information will also be on the pre-application:
 - Street address, city, state and zip
 - Contact phone number
 - E-Mail Address

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2.7 INTEREST LIST STRUCTURE

Once the pre-application is completed on-line, FH will place all applicants on the 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 Chapter 1.13.

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

To be placed on the interest list; pre-applications must include at a minimum the following information about each applicant:

1. Name
2. Family size
3. Date and time of the completed pre-application
4. Information pertaining to possible qualification for a local preference
5. Race and ethnicity of the head of household

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.

2.8 APPLICANT STATUS WHILE ON INTEREST LIST

[CFR 982.202 (c), 982.204]

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

The interest list will be maintained with accurate information.

If an applicant is disabled and requires a special accommodation in making changes to their pre-application and the disability is obvious or otherwise known, FH will accommodate the request without verifying the disability.

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

2.8.1 APPLICANT PORTAL

The Applicant Portal has been established for persons who submit a pre-application with Fresno Housing (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 interest list. FH'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 FH is able to make contact with

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the applicant when selected from the interest list.

2.9 REMOVING APPLICANT NAMES

[24 CFR 982.204 (c)]

FH will remove names of applicants who do not respond to requests for information or updates. See section 2.10 Grounds for Cancellation from the Interest/Waiting List.

FH's decision to withdraw from the Interest/Waiting list the name of an applicant family that includes a person with disabilities is subject to reasonable accommodation in accordance with 24 CFR part 8. If the applicant did not respond to the FH's request for information or updates because of the family member's disability, FH must reinstate the applicant in the family's former position on the waiting list.

2.9.1 PURGING THE INTEREST LIST OR WAITING LIST

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

The interest/waiting list will be purged as needed to ensure that all applicants and applicant information is current and accurate. The status of the pre-application will be updated on the applicant online portal.

To update the interest/waiting list, FH may send an update request via first-class mail and/or email to each applicant on the interest/waiting list. The applicant will be asked whether they have continued interest in the program and FH will provide a deadline by which the family must respond. This update request will be sent to the last address and/or email that FH has on record for the applicant. If no response is received by the deadline, the applicant is removed from the interest/waiting list.

FH may also require applicants to register and create an online applicant portal account so FH may send an email. The applicant will be asked to access their online applicant portal account to save their spot on the interest/waiting list and FH 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/waiting list.

2.9.2 FINAL DRAW FROM THE INTEREST LIST

FH may conduct a final draw from the interest list, or draw from the interest list as needed to maintain maximum voucher utilization. Applicants not included in the final draw will be cancelled from the interest list and notified by email. The status of the pre-application will be updated on the applicant online portal.

In all instances stated above, the pre-application will be updated to reflect the current status in the applicant portal.

2.10 GROUNDS FOR CANCELLATION FROM THE INTEREST/WAITING LIST

FH may cancel the pre-application and remove the applicant from the waiting list when:

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- The applicant does not respond to FH's request for response by a specific date,
- Failure to attend a scheduled appointment,
- If a letter is returned by the Post Office,
- or Failure to log onto the online applicant portal to save their spot,
- Failure to complete process.

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 when applicable and/or a record of the email sent will be stored electronically.

Applicants may be reinstated after FH has conducted a review of the case and the applicant's request is approved. If the applicant did not respond to FH'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 FH will reinstate the applicant in the former position on the waiting list or reschedule the missed appointment if funding is available.

CHAPTER 3: SELECTION FROM THE 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, FH will perform a draw from its interest list. Once the draw has been completed, selected applicants will be notified via USPS mail and email (if applicable) and applicants will be given an opportunity to update their information with FH. 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 Applications and Interest List, 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 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 INTEREST LIST

[24 CFR 982.204]

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

It is FH's objective to pull names from the 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)]

FH selects applicants from the interest list using the lottery method. As vouchers become available, pre-applications will be randomly pulled from the interest list using a lottery system in order of preferences selected in the pre-application. Applicants with equal preference status will be organized by random order before selecting from the next group of applicants with equal preference status, and so on and so forth.

After all complete and unduplicated pre-applications are received during the opening of the interest list, FH may complete a lottery random draw from the interest list as needed to maximize voucher utilization throughout the year and/or conduct a final draw. Applicants randomly selected from the interest list will be placed on the waiting list in order of the preferences and random assignment.

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

FH 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]

FH may establish local preferences based upon housing needs and priorities as determined by FH. 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, FH 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, FH determines that the family does not qualify for the preference(s) claimed, the preference(s) will be removed.

- If there is an interest list, the applicant will be returned to the interest list without the benefit of the preference removed.
- If an applicant is selected from the interest list for a specified number of preference points and the applicant does not qualify for the preference claimed, but is determined to be eligible for the other preference points, the applicant will be screened for eligibility if the preference points are equal to or more than the preference points drawn.
- If the applicant was in the last batch of waitlist draws (due to final draw, for example) for a specified number of points, and the applicant's preference points are less than the specified number of points drawn, the applicant will be cancelled.

FH 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.

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

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- 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 any family member is 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 family may receive no more than 10 total points for the Elderly or Disabled Person preference

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category.

4. Family with Minor Children Preference (10 Points)

This preference applies to applicant families with minor children under age 18 who meet HUD and FH's definition of a family member. Minor children of a live-in aide do not qualify the family for this preference. Minor foster children of an authorized adult member of the applicant household do not qualify the family for this preference.

3.4.1 DISPLACEMENT REFERRALS

This preference is subject to the approval of the Executive Director. FH 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.
- Survivors under VAWA Reauthorization Act of 2022
- Victims under witness protection programs

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.

These preferences are available even when the interest list is closed to other applicants. Applicants who have vacated housing as a result of:

- a. A Natural disaster that has been so declared by a local, state, or federal government entity (fire, flood, earthquake, etc.) verification to be provided by:

Verification: Certification from a unit of government concerning displacement due to disaster.

- b. Federal, State or local government action related to code enforcement, public improvement or development. Verification to be provided by:

Verification: Certification from a unit of government concerning displacement due to code enforcement, public improvement or development, and coordinate referral with FH;

- c. Victims of domestic violence, dating violence, sexual assault, or stalking who either:

1. Have vacated due to actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member, or
2. Live in housing with an individual who engages in such violence. Such "actual" or "threatened" violence must have occurred recently or be of a continuing nature. An

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applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.

3. As a result of an emergency transfer from another PHA or HUD covered housing program in accordance with Exhibit 16.5 VAWA policy.

Verification: Police report or other legal documentation, social service agency, court records, physician statements, public or private shelter or counseling facility; written verification from that entity would be required.

- d. Victims under witness protection programs: Applicant, or member of applicant family, has been advised by a law enforcement agency to relocate to minimize risk of violence against family members as a result of providing information on criminal activities to a law enforcement agency. Proper safeguards will be provided by the PHA to conceal the identity of families requiring protection against such reprisal. Verification to be provided by Law Enforcement Agency.

Verification: Documentation by a law enforcement agency recommending the relocation of the household to avoid or minimize the threat of violence or reprisal to or against the household member(s) for providing such information.

3.4.2 LIMITED PREFERENCE HOMELESS

Approximately 490 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 or promote ending homelessness, based on referrals from identified agencies with whom we would partner.

3.4.3 PREFERENCE DENIAL

[24 CFR 982.207]

If upon verification FH determines that the family does not qualify for the preference claimed, the family does not receive the preference and their pre-application may be canceled or put back on the interest list; unless the family was selected during the final draw, in which case the pre-application may be cancelled. The family will be notified in writing and advised of the family's right to request an informal review. For additional information refer to Informal Reviews and Hearing chapter.

3.4.4 HOUSING ACCESS AND REENTRY PILOT PROGRAM

FH 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 FH by 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 25 individuals to enter FH as a newly admitted household (See Section 4.3). There is no proposed cap on the number of individuals allowed to enter FH for the purpose of rejoining other family member households.

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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.

3.4.5 WORKFORCE STABILITY LIMITED PREFERENCES

FH would make available 50 vouchers in the City and 50 vouchers in the County through a limited preference to support workforce stability and the region's upskilling initiatives. Referrals would come from a wide variety of partner agencies including those engaged in the Developing the Region's Inclusive and Vibrant Economy (DRIVE) Human Capital initiatives related to job training or upskilling programs. As households choose to enroll in time consuming employment training programs, they will have simultaneous access to housing supports to ensure stability during their upskilling process.

Details of criteria and the referral process will be developed and outlined in an agreement/MOU with referring partner agencies who would identify individuals through their employment and training programs. Participants in need of housing stability to successfully complete training program or secure and/or maintain employment post-completion of the training program, will be targeted.

The workforce stability limited preference would provide housing assistance to 100 in the region (50 in the City PHA and 50 in the County PHA) extremely low- and low-income households. Implementing a limited preference for workforce stability would help drive inclusive, economic growth in Fresno, ranked 55th out of 59 California cities in economic health, qualifying as distressed in overall inclusion. (Urban Institute)

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.

FH 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 FH services or programs for which the family may be available.

Applicants will be required to complete an online intake application or to fill out a paper intake application. For the HCV and PBV programs, applicants may be given up to 30 calendar days to complete the intake application online or to submit the paper intake application.

An invitation 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.

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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, FH 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 and requirements for lifetime registration under a State Sex Offender Registration program.
- 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 Initial Questionnaire, HUD Form 9886-A (Release of Information), Form HUD-92006, the Declaration of Section 214 Status related to citizenship/immigration and any other documents required by FH. Applicants will be required to sign specific verification forms for information which is not covered by the HUD Form-9886-

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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 [Verification Procedures](#) chapter.

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As part of the full application process, FH 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, FH will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by FH, and the current eligibility criteria in effect.

[HUD-9886-A](#)

[The executed Form HUD-9886-A will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to FH to revoke consent.](#)

[Families have the right to revoke consent by notice to FH; however, revoking consent can result in termination or denial of assistance.](#)

[FH may not process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent forms.](#)

[FH must notify the local HUD office when an applicant or participant family member revokes their consent.](#)

SECTION THREE: DETERMINING APPLICANTS ELIGIBLE OR INELIGIBLE

3.7 WAITING LIST ESTABLISHMENT

[24 CFR 982.204 and 205]

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

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3.8 FINAL ELIGIBILITY DETERMINATION

[24 CFR 982.201]

Each applicant will be interviewed by FH staff to review the information on the application for [Intake Application Packet](#).

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If FH determines at or after the interview that additional information or document(s) are needed, FH 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

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time period, FH 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.

CHAPTER 4: ELIGIBILITY FOR ADMISSION

4.1 INTRODUCTION

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

FH 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 FH 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 FH 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 FH 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 Chapter 4.3. All information provided by the applicant, will be verified, using the verification procedures described in Chapter 7.

4.2.1 ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM AT ADMISSION

- Existing Tenant Search and Avoiding Duplicate Subsidy
- 120-day EIV Report: income and identity review

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;
- A 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.

FH 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 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. Neither the application nor voucher can be issued to individuals not listed on the pre-application when the original HOH is no longer interested in receiving assistance.

"Household" is a broader term that includes additional people who, with FH'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 FH 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 FH, 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.

Once a live-in aide is approved, the family must identify a person as the live-in aide within 60 calendar days of the approval to allow FH to conduct a background check. Thirty-day

extensions may be granted up to 120 days to allow the family time to identify a live-in aide. In the event a live-in aide cannot be identified the voucher size may be reduced by processing a special recertification. If the family later identifies a live-in aide, a special recertification may be processed which may change the anniversary date of the family's annual recertification. The same allotment of time also applies when the family must replace a current live-in aide.

The owner of an assisted unit may never be a live-in aide for the family.

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 FH. 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 FH. At any time, FH 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 FH or to another housing authority in connection with Housing Choice Voucher or public housing assistance under the 1937 Act;
- The person does not pass FH's criminal background check requirements; or
- Does not reside in the unit, but has a residence elsewhere

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4.7 APPLICANT FAMILY BREAK-UPS

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L, the FH must ensure that the victim retains assistance.

FH shall have discretion to determine which members of an applicant family will be issued the voucher. FH will require information to determine who will be issued the voucher.

Other factors to be considered in making this decision includes:

- The interest of minor children or of ill, elderly or disabled family members.
- Whether family members are forced to separate as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.
- Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, and whether the abuser is still in the household.
- Which household meets all eligibility criteria.
- Restrictions that were in place at the time the family applied.
- Recommendations of social service agencies or qualified professionals such as Fresno County Child Welfare Services.

Documentation of these factors is the responsibility of the applicant families.

If documentation is not provided, the applicant(s) may be denied placement on the waiting list or denied voucher issuance for failure to supply information requested by FH.

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, FH 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 FH 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, FH 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".

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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 FH

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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 FH 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;

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- 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
 - v. 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 HCV 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 who 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

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- 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 HCV programs to mean the biological or adoptive parents, or guardians (e.g., step-parents, grandparents, aunt/uncle, godparents, etc.). FH will adopt this definition without adding any further stipulations.

FH 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 "*Informal Reviews and Hearings*" chapter for additional information about reviews and hearings.

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

General Definitions [24 CFR 5.100]:

HUD and FH have defined the following:

Covered person for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Drug means a controlled substance as defined in Section 102 of the Controlled Substance Act 21 U.S.C 802).

Drug-related criminal activity (as defined in Section 102 of the Controlled Substances Act 21 U.S.C 802) 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

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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 means any use or possession of illegal drugs during the previous twelve months.

Pattern of abuse is defined as the use and/or possession 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 FH'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.

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, FH may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if FH is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by FH; 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 FH 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 FH 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 FH 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 and persons residing in the immediate vicinity of the premises [24 CFR 982.553 (a) (3)]. Admission will be prohibited for three years from the date of the offense.
7. **Consent Forms** - FH will deny admission if any member of the family fails to sign and submit HUD or FH-required consent forms for obtaining information [24 CFR 982.552 (b) (3)].
8. **Citizenship Status** - FH 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 2018-24].
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

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described in this chapter; [24 CFR 982.552 (b) (5)].

4.19 ADDITIONAL PROHIBITIONS

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

FH 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 FH Program: If FH 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)].
- Outstanding Debt: If the family currently owes rent or other amounts to FH 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 FH 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 FH to pay amounts owed to FH, or amounts paid to an owner by FH. (FH, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to FH or amounts paid to an owner by FH. FH may prescribe the terms of the agreement) [24 CFR 982.552 (c) (1) (vii)]
- Actual or Threatened Abusive or Violent Behavior Toward FH Personnel: If the family has engaged in or threatened abusive or violent behavior toward FH personnel [24 CFR 982.552 (c) (1) (ix)]. "Abusive or violent behavior toward FH 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 FH, 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.

FH Policy - FH may prohibit admission of a household to the program if FH 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 FH (including a FH employee or a FH 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.

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].

Restrictions on assistance to families based on assets- 24 CFR 5.618

Refer to Restriction on Assistance to Families Based on Assets section.

4.20 SCREENING FOR ADMISSION

[24 CFR 982.552, 982.553, 5.903, 5.905]

The PHA may admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program or the person who committed the crime, is no longer living in the household.

4.20.1 SCREENING STANDARDS

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Screening 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 FH'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, FH will also check for persons subject to a lifetime registration requirement under a State sex offender registration program.

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

1. Criminal background report
2. Sex offender report

When conducting a background check FH may obtain the following reports:

1. Credit Report
2. Eviction report

California Sex Offense Registry

Registration includes a wide variety of offenses from indecent exposure to child sex trafficking.

As a result, California's sex offense registry contains a significant number of people with low-level convictions and/or people who were convicted decades ago who present little to no risk to the communities in which they live.

As of 01/01/2021, CA's registry is now tiered (but not automatic):

Tier 1 – Must register for 10 years

Tier 2 – Must register for 20 years

Tier 3 – Risk Assessment Level: 20 years; if not,

Tier 3 - Lifetime Registration

4.20.2 FACTORS RELEVANT TO FH CRIMINAL BACKGROUND & EVICTION SCREENING

Prior to making a final determination as to admission relevant to FH criminal background and eviction screening, FH 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 FH DECISION IS TO DENY ADMISSION

If FH 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, FH 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.

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If denied as a result of the criminal background check, FH 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.
- VAWA forms 5380 and 5382

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

4.20.4 RECORDS MANAGEMENT

[24 5.903 (g)]

Consistent with the limitations on disclosure of records, FH has established and implemented a system of records management that ensures that any criminal record received by FH 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 FH 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. FH 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 FH 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; FH has [24 CFR 982.552 (c) (2)]:

1. Discretion to consider all relevant circumstances in each case, including the seriousness of the case. FH will use its discretion in reviewing the extent of participation or culpability

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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. FH 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. FH may impose a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. FH 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*, FH may consider individual circumstances with the advice of Juvenile Court officials. FH 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, FH [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, FH 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. FH will also consider whether the family disclosed the information to FH 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, FH will deny assistance. In making this determination, FH 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

FH 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 show 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. FH 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 [Informal Reviews and Hearings](#) chapter.

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CHAPTER 5: SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

5.1 INTRODUCTION

HUD guidelines require that FH 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 FH'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]

FH does not determine who shares a living/sleeping room. FH'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 FH'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 up to 18 months, due to placement in foster care should be considered a member of the family.
- 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 FH 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. FH will not approve an unidentified live-in aide; nor a larger unit than the family qualifies for under FH subsidy standards, for an unidentified aide.

Generally, FH 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 one-bedroom voucher.
- A separate bedroom will be issued to the head of household (with spouse or co-head, if any) and one bedroom to every two persons, thereafter.

Chart 5-A: Guidelines for Determining Voucher Size

Voucher Size	Persons in Household	Persons in Household
	(Minimum #)	(Maximum #)
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	4	6
4 Bedrooms	6	8
5 Bedrooms	8	10
6 Bedrooms	10	12

FH will analyze its subsidy standards and voucher issuance policy to ensure it meets HUD requirements to expend HAP within its eligible Budget Authority, including HAP reserves, and to maintain unit months leased within its authorized voucher allocation. 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)]

FH 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 areas 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 FH during the annual inspection process.

- An exception may be granted, (cases are decided on a case-by-case basis), when a member or members of the household need a separate bedroom. When considering the necessity of a larger subsidy for a separate bedroom, all other living and sleeping areas in the unit must be insufficient for use as a sleeping area.

When the need for a separate bedroom is verified by a professional as a request for reasonable accommodation, FH will acknowledge the need for a separate bedroom for the person with disabilities and a larger subsidy may be granted when the other sleeping areas in the unit are insufficient and create an over-crowded situation (refer to Section 5.6 HQS Guidelines for Unit Size Selected).

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. FH 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 FH's subsidy standards. Such request must be made in writing within 10 business days of FH'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 5.4 SUBSIDY STANDARDS AND VOUCHER ISSUANCE CHANGES IN SUBSIDY/ VOUCHER SIZE

FH must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. FH must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

5.4.1 CHANGES FOR APPLICANTS

The subsidy/voucher size is determined prior to the briefing by comparing the family composition to FH 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 FH. 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 FH within 30 business 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), FH will issue a new voucher. FH 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 FH.

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, FH 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, FH 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.

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

Section Two: Adjusted Income. Once annual income has been established HUD regulations require FH to subtract from annual income any of five mandatory deductions for which a family qualifies (See Section Two).

Section Three: 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.

SECTION ONE: ANNUAL INCOME

6.2 ANNUAL INCOME INCLUSIONS

[24 CFR 5.609]

Annual income includes, with respect to the family:

1. All amounts, not specifically excluded in section 6.2.1 received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
2. When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

6.2.1 ANNUAL INCOME EXCLUSIONS

[24 CFR 5.609, PIH Notice 2013-04, PIH Notice 2019-09, Federal Register 05-20-14]

Examples of excluded income can be found in Appendix D

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. FH 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).

Annual income does not include the following:

- 1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- 2) The following types of trust distributions:
 - For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 5.603 (b):
 - Distributions of the principal or corpus of the trust; and
 - Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
 - For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- 3) Earned income of children under 18 years of age.
- 4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- 5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- 6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- 7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- 8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.
- 9) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and (ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

- Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from
 - The Federal government;
 - A State, Tribe, or local government;
 - A private foundation registered as a nonprofit under 24 U.S.C. 501 (c)(3);
 - A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
 - An institution of higher education.
- Student financial assistance, for purposes of this paragraph (9)(ii), does not include—
 - Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
 - Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
 - Gifts, including gifts from family or friends; or
 - Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.
- Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:
 - Expressly for tuition, books, room and board, or other fees required and charged to a student by the education
 - institution;
 - Expressly to assist a student with the costs of higher education; or
 - Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.
- Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).
- When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

- If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
 - If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
 - The total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.
- 10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.
 - 11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
 - 12) (i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.
 - (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

- 13) 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.
- 14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611.
- 15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.
- 16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- 17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
- 18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- 19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- 20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- 21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.
- 22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- 23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

- 24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
- i. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
 - ii. Direct Federal or State payments intended for economic stimulus or recovery.
 - iii. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
 - iv. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
 - v. Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.*, wedding gifts, baby showers, anniversaries).
 - vi. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
 - vii. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- 25) Civil rights settlements or judgments, including settlements or judgments for back pay.
- 26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
- 27) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- 28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
- i. Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and
 - ii. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

“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(g), 5058);

(iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C.

1626(c));

(iv) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(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. 3056f);

(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(i));

(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)).

6.2.2 CALCULATION OF INCOME

Calculation of Income. ~~The PHAFH~~ or owner must calculate family income as follows:

~~Initial occupancy or assistance eligibility and interim Interim Reexaminations.~~

~~The PHAFH or owner must estimate the income of the family for the upcoming 12-month period:~~

- ~~(i) To determine family income for initial occupancy or for the initial provision of housing assistance eligibility; or~~
- ~~(ii) To determine family income for an interim reexamination of family income under §§ 5.657(c), 960.257(b), or 982.516(c) of this title.~~

~~(2) Annual Reexaminations.~~

- ~~• (i) The PHA or owner FH must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA or owner uses a streamlined income determination under §§ 5.657(d), 960.257(c), or 982.516(b) of this title.~~
- ~~• (ii) In determining the income of the family for the previous 12-month period, the PHAFH or owner must take into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination of family income under §§ 5.657(c), 960.257(b), or 982.516(c) of this title~~
- ~~• (iii) The PHA or owner FH must make adjustments to reflect current income if there was a change in income during the previous 12-month period that was not accounted for in a redetermination of income~~

When FH cannot easily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), FH 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. Any time 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 FH to show why the historic pattern does not represent the family's anticipated income.

6.2.3 USE OF OTHER PROGRAMS' DETERMINATION OF INCOME

The PHAFH or owner may, using the verification methods in **paragraph (c)(3)(ii) of this section**, determine the family's income prior to the application of any deductions applied in accordance with § 5.611 based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:

- (A) The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- (B) Medicaid (42 U.S.C. 1396 et seq.).
- (C) The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).

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(D) The Earned Income Tax Credit (26 U.S.C. 32).

(E) The Low-Income Housing Credit (26 U.S.C. 42).

(F) The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).

(G) Supplemental Security Income (42 U.S.C. 1381 et seq.).

(H) Other programs administered by the Secretary.

(I) Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.

(J) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register.

If a PHA or owner^{FH} intends to use the annual income determination made by an administrator for allowable forms of Federal means-tested public assistance under this paragraph (c)(3), the PHA or owner^{FH} must obtain it using the appropriate third-party verification. If the appropriate third-party verification is unavailable, or if the family disputes the determination made for purposes of the other form of Federal means-tested public assistance, the PHA or owner^{FH} must calculate annual income in accordance with 24 CFR part 5, subpart F. The verification must indicate the tenant's family size and composition and state the amount of the family's annual income. The verification must also meet all HUD requirements related to the length of time that is permitted before the third-party verification is considered out-of-date and is no longer an eligible source of income verification

6.2.4 DE MINIMIS ERRORS

De minimis errors occur when FH's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the amount of de minimis error through rulemaking.

Once FH becomes aware of the existence of an income calculation error, the error(s) will be corrected retroactive to the effective date of the action resulting in an error regardless of the dollar amount associated with the error.

Families will not be required to repay FH in instances where FH miscalculated income resulting in a family being overcharged for rent. One FH becomes aware of the error the family will be provided with a 30-day notice of the increase to their rent portion.

FH will take corrective action to credit or repay a family if the family was overcharged tenant rent, including de minimis errors, in the income determination.

~~In the case of the HCV residents, the family's rent portion will be temporarily adjusted down with additional HAP going to the property owner. FH will send a letter to the family and the landlord prior to the change in payments notifying them of the change and the duration of the change. If the participant has vacated the unit, the credit will be mailed or provided to the family within 30 days of becoming aware of the error. The PHA or owner will not be considered out of compliance with the requirements in this paragraph (c) solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA or owner determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.~~

~~(i) The PHA or owner must still take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share as a result of the de minimis error in the income determination, but families will not be required to repay the PHA or owner in instances where a PHA or owner has miscalculated income resulting in a family being undercharged for rent or family share.~~

~~(ii) HUD may revise the amount of de minimis error in this paragraph (c)(4) through a rulemaking published in the Federal Register for public comment.~~

6.3 MINIMUM INCOME

There is no minimum income requirement.

If the family reports zero annual income, FH will require the family to complete a zero income affidavit. FH 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, FH will question the family about contributions and gifts.

6.4 RESTRICTION ON ASSISTANCE TO FAMILIES BASED ON ASSETS (24 CFR 5.618)

Examples of excluded assets can be found in Appendix D

Restrictions based on net assets and property ownership

1. A dwelling unit in the public housing program may not be rented, and assistance under the Section 8 (tenant-based and project-based) programs may not be provided, either initially or upon reexamination of family income, to any family if:
 - (i) The family's net assets (as defined in § 5.603) exceed \$100,000, which amount will be adjusted annually by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers; or
 - (ii) The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence, except this real property restriction does not apply to:
 - (A) Any property for which the family is receiving assistance under 24 CFR 982.620; or

under the Homeownership Option in 24 CFR part 982;

(B) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;

(C) Any person who is a survivor of domestic violence, dating violence, sexual assault, or stalking, as defined in this part 5 (subpart L); or

(D) Any family that is offering such property for sale.

2. A property will be considered "suitable for occupancy" under paragraph (a)(1)(ii) of this section unless the family demonstrates that it:

(i) Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);

(ii) Is not sufficient for the size of the family;

(iii) Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner^{FH});

(iv) Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or

(v) Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

Acceptable documentation; confidentiality

1. A PHA or owner^{FH} may determine the net assets of a family based on a certification by the family that the net family assets (as defined in § 5.603) do not exceed \$50,000, which amount will be adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, without taking additional steps to verify the accuracy of the declaration. The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.

2. A PHA or owner^{FH} may determine compliance with paragraph (a)(1)(ii) of this section based on a certification by a family that certifies that such family does not have any present ownership interest in any real property at the time of the income determination or review.

3. When a family asks for or about an exception to the real property restriction because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner^{FH} must comply with the confidentiality requirements under § 5.2007. The PHA or owner^{FH} must accept a self-certification from the family member, and the

restrictions on requesting documentation under § 5.2007 apply.

Enforcement

1. When recertifying the income of a family that is subject to the restrictions in paragraph (a) of this section, a PHA or owner may choose not to enforce such restrictions, or alternatively, may establish exceptions to the restrictions based on eligibility criteria.

2. FH has opted not to The PHA or owner may choose not to enforce the restrictions in paragraph (a) of this section or establish exceptions to such restrictions only pursuant to a policy adopted by the PHA or owner.

3. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. Such policies must be in conformance with all applicable fair housing statutes and regulations, as discussed in this part 5.

Delay of eviction or termination of assistance

The PHA or owner may delay for a period of not more than 6 months the initiation of eviction or termination proceedings of a family based on noncompliance under this provision unless it conflicts with other provisions of law.

Applicability

This section applies to the Section 8 (tenant-based and project-based) and public housing programs.

6.5 REDUCTION IN BENEFITS

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

6.5.1 WELFARE BENEFITS

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

FH 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;

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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.

FH **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 VERIFICATION BEFORE DENYING A REQUEST TO REDUCE RENT

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

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The welfare agency, at the request of FH, will inform FH 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)]

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FH must compute all applicable income of every family member -whether or ~~not (s)he~~the member 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, FH 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. FH 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 up to 18 months or less from the home due to placement in foster care, FH will determine from the appropriate agency when the child/children will be returned to the home. After 18 months, 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, FH will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

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

Families must notify FH 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, FH will not continue assistance payments. HUD regulations require FH 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, FH 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 if 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 FH in accordance with the family's responsibilities, and if funding is available, FH 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, nor 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, FH 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 caretaker must meet program eligibility criteria.

If the appropriate agency cannot confirm the guardianship status of the caretaker, FH 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, FH 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, FH 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. FH will use discretion as deemed appropriate in determining any further assignation 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.

FH 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 FH approves a person to reside in the unit as caretaker for the child(ren), the income should be counted pending a final disposition. FH 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 FH the death of a sole member, FH 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, FH 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 FH 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. Explicitly temporary is defined as living in the unit more than 60 consecutive days without FH approval, or a total of 90 days in a 12-month period. 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 FH 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 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 FH policy (e.g., visitors may not reside in the unit over two weeks), the lease will prevail over FH policy.

6.9 EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

[24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]

AS OF JANUARY 2, 2024, NO NEW FAMILIES QUALIFY.

THE EARNED INCOME DISALLOWANCE FULLY SUNSETS JANUARY 1, 2026.

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

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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 if 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 12 months before employment, no more than would be received 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 "baseline income" is the annual income immediately prior to implementation of the disallowance of a person with disabilities (who is a member of a qualified family).

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 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, FH 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

Upon expiration of the second cumulative 12-month period after the expiration of the initial 12-month period referred to above and the subsequent 12-month period, FH must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member's baseline income.

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

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later.

- 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 childcare 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 childcare 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)

FH 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).

SECTION TWO: ADJUSTED INCOME

6.10 ADJUSTED INCOME

[24 CFR 5.611]

Adjusted income means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) Mandatory deductions

1. \$480 for each dependent ~~(adjusted annually by HUD, rounded to the next lowest multiple of \$25), which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;~~

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2. \$525 for any elderly family or disabled family ~~(adjusted annually by HUD, rounded to the next lowest multiple of \$25), which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;~~

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3. The sum of the following, to the extent the sum exceeds ten percent of annual income:

- i. Unreimbursed health and medical care expenses of any elderly family or disabled family; and
- ii. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed. This deduction may not exceed the combined earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

4. Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) Additional deductions

1. ~~The Housing Choice Voucher (HCV) and the Section 8 moderate rehabilitation programs (including the moderate rehabilitation Single Room Occupancy (SRO) program), a PHA may adopt additional deductions from annual income:~~

- i. ~~HCV, moderate rehabilitation, and moderate rehabilitation Single Room Occupancy (SRO) programs. A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding or moderate rehabilitation program funding for subsidy costs resulting from such deductions. For the HCV program, the PHA must include such deductions in its administrative plan. For moderate rehabilitation, the PHA must establish a written policy for such deductions.~~

2. ~~For the HUD programs listed in § 5.601(d), the responsible entity must calculate such other deductions as required and permitted by the applicable program regulations.~~

(c)

6.10.1 HARDSHIP EXEMPTIONS

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

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Financial hardship exemption for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

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The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

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Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

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Phased-In Relief

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The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

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For these families, the threshold amount is phased-in as follows:

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- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
 - When an eligible family's phased-in relief begins at an interim reexamination, FH will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

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Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

FH must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for

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general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

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FH Policy

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FH will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

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1. ~~Phased-in relief. This paragraph provides financial hardship relief for families affected by the statutory increase in the threshold to receive health and medical care expense and reasonable attendant care and auxiliary apparatus expense deductions from annual income.~~

i. ~~Eligibility for relief. To receive hardship relief under this paragraph (1), the family must have received a deduction from annual income because their sum of expenses under paragraph (a)(3) of this section exceeded 3 percent of annual income as of January 1, 2024.~~

ii. ~~Form of relief.~~

A. ~~The family will receive a deduction totaling the sum of the expenses under paragraph (a)(3) of this section that exceed 5 percent of annual income.~~

B. ~~Twelve months after the relief in this paragraph (c)(1)(iii) is provided, the family must receive a deduction totaling the sum of expenses under paragraph (a)(3) of this section that exceed 7.5 percent of annual income.~~

C. ~~Twenty four months after the relief in this paragraph (c)(1)(iii) is provided, the family must receive a deduction totaling the sum of expenses under paragraph (a)(3) of this section that exceed ten percent of annual income and the only remaining relief that may be available to the family will be paragraph (d)(1) of this section.~~

D. ~~A family may request hardship relief under paragraph (c)(2) of this section prior to the end of the twenty-four month transition period. If a family making such a request is determined eligible for hardship relief under paragraph (c)(2) of this section, hardship relief under this paragraph ends and the family's hardship relief shall be administered in accordance with paragraph (c)(2) of this section. Once a family chooses to obtain relief under paragraph (c)(2) of this section, a family may no longer receive relief under this paragraph.~~

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in FH policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

FH must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. FH must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

FH Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. FH defines a change in circumstances as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with FH policies.

- Examples of circumstances constituting a financial hardship may include the following situations:
- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, FH will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

FH must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

FH Policy

FH will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

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If FH denies the hardship exemption request, the FH notice will also state that if the family does not agree with FH's determination, the family may request a hearing.

If the family qualifies for an exemption, FH will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, FH may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

FH Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. FH will extend relief for an additional 90-days if the family demonstrates to the FH's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. FH will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, FH may terminate the hardship exemption if the FH determines that the family no longer qualifies for the exemption. 2. General. This paragraph (c)(2) provides financial relief for an elderly or disabled family or a family that includes a person with disabilities that is experiencing a financial hardship.

i. Eligibility for relief.

A. To receive hardship relief under this paragraph (c)(2), a family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased or the family's financial hardship is a result of a change in circumstances (as defined by the responsible entity) that would not otherwise trigger an interim reexamination.

B. Relief under this paragraph (c)(2) is available regardless of whether the family previously received deductions under paragraph (a)(3) of this section, is currently receiving relief under paragraph (c)(1) of this section, or previously received relief under paragraph (c)(1) of this section.

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ii. Form and duration of relief:

- A. The family will receive a deduction for the sum of the eligible expenses in paragraph (a)(3) of this section that exceed 5 percent of annual income.
- B. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, responsible entities may, at their discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

(d)

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to FH's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, FH must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

FH Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. FH defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. FH will consider qualification under this criterion on a case-by case basis (for example, if the family member

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who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

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The family must provide third-party verification of the hardship with the request. If third-party verification is not available, FH will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

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FH must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

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If FH denies the request, the notice must specifically state the reason for the denial. FH must provide families 30 days' notice of any increase in rent.

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If FH approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to FH if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

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FH Policy

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FH will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

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If FH denies the hardship exemption request, the FH notice will also state that if the family does not agree with FH's determination, the family may request an informal grievance hearing.

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If the family qualifies for an exemption, the FH will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

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If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

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FH may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

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FH must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If FH denies the request, the notice must specifically state the reason for the denial.

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FH must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

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FH Policy

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The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

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) Exemption to continue child care expense deduction:

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~~A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the child care expense deduction under paragraph (a)(4) of this section. The responsible entity must recalculate the family's adjusted income and continue the child care deduction if the family demonstrates to the responsible entity's satisfaction that the family is unable to pay their rent because of loss of the child care expense deduction, and the child care expense is still necessary even though the family member is no longer employed or furthering his or her education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. Responsible entities, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.~~

Permissive Deductions

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FH has opted not to use permissive deductions

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(e) Hardship Policy Requirements.

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1. The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.
2. FH must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If FH denies the request, the notice must specifically state the reason for the denial.
3. FH must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.
- ~~1. Responsible entity determination of family's inability to pay the rent. The responsible entity must establish a policy on how it defines what constitutes a hardship under paragraphs (c) and (d) of this section, which includes determining the family's inability to pay the rent, for purposes of determining eligibility for a hardship exemption under paragraph (d) of this section.~~
- ~~2. Family notification. The responsible entity must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from the hardship exemption. The notice must also inform the family of when the hardship exemption will begin and expire (i.e., the time periods specified under paragraph (c)(1)(ii) of this section or within 90 days or at such time as the responsibility entity determines the exemption is no longer necessary in accordance with paragraphs (c)(2)(iii)(B) or (d) of this section).~~

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SECTION THREE: 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)

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

FH 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. FH notification will advise the family that hardship exemption determinations are subject to FH grievance procedures. FH 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, FH 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

FH recognizes that in some circumstances even the minimum rent may create a financial hardship for families. FH will review all relevant circumstances brought to FH's attention regarding financial hardship as it applies to the minimum rent. The following section states FH'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 FH's Minimum Rent is more than zero and the family is paying the minimum rent, FH 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 FH or HUD.

In addition to the HUD hardships, FH 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, FH will immediately suspend the minimum rent for the family until FH can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature. A supervisor must approve hardship exemptions.

6.12.3 NO HARDSHIP

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

6.12.4 TEMPORARY HARDSHIP

If FH 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. FH 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

FH will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. If the family owes FH money for rent arrears incurred during the minimum rent period, FH will require that the family pay a minimum 10% initial lump sum with the remaining balance to be paid in equal payments over a period of time not to exceed 24 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. FH's policies regarding repayment agreements are further discussed in Chapter 18 entitled "Owner or Family Debts to FH."

6.12.5 LONG-TERM HARDSHIP

If FH 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, FH 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. Either FH 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 FH

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, FH 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.

FH 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). FH must give HUD a copy of the utility allowance schedule. At HUD's request, FH 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, FH must use normal patterns of consumption for the community as whole and current utility rates.

FH'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, FH may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

In the utility allowance schedule, FH 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. FH 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.

FH must maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule. At HUD's direction, FH 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

FH 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

FH 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 FH 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, FH 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.

6.14 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 FH POLICY ON REIMBURSEMENT TO FAMILY

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

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CHAPTER 7: VERIFICATION PROCEDURES

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, PIH Notice 2017-12]

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 FH whenever information is requested; information cannot be altered or incomplete. FH 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, FH 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 or virtual appointments to discuss any discrepancies with the family at the time of the certification interview.

Families will be made aware that FH 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 FH and Verification

HUD regulations require that when a family is assisted under any HCV 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 FH. Families will be given 10 business days to furnish requested documents. FH must verify the accuracy of the income information received from the family, and change the amount of the total tenant payment, tenant rent or HCV 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

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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
- FH 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 survivor 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, ASSETS, AND EXPENSES. METHODS OF VERIFICATION AND TIME ALLOWED

[24 CFR 982.516; 982.201(e) and PIH 2018-18]

FH 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 FH 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 FH request date.

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

FH 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 FH request date or reexamination date:

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

FH may conduct a streamlined reexamination of income for family members with fixed income (applies to participants only). FH 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. FH may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. FH 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

FH will begin with the highest level of verification techniques.

PHAs will access the EIV system and Income Validation Tool (IVT) for each household. Income Reports will be retained 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. The data shown on income reports is updated quarterly.

If 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) and the Income Validation Tool (IVT)	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)

Clarification of terms in the Verification Hierarchy:

1. Up-front Income Verification (UIV) using HUD's Enterprise Income Verification EIV system and IVT
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 (signed questionnaire packet)

FH will allow 10 calendar days for the return of written third-party verification form before going to the next method, which is oral verification. FH 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 Reauthorization Act of 2022 (VAWA 2022), the certification must be received 14 working days from applicant's/participant's receipt of FH request.

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

FH 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).

FH 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) and IVT (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. Within the EIV system, the Income Validation Tool (IVT) provides a comparison between tenant-reported income and previously reported income on the form HUD-50058 and includes any discrepant income information from data sharing with HUD partners. This data is updated monthly.

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

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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 FH 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. FH 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.). FH 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 FH-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 FH 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 FH. This is the verification method of last resort and should be used when FH 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, FH 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. The signed (physical or electronic) questionnaire packet is considered self-certification.

7.3.3 THIRD PARTY VERIFICATION REQUIREMENTS

In accordance with 24 CFR §982.516(a)(2) for the HCV programs, FH 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 OR IVT 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 during annual reexaminations. If the EIV or IVT 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) FH 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, FH 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 FH'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 FH has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings

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through the informal review/hearing process of FH.

*FH 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 FH IS REQUIRED TO REQUEST WRITTEN THIRD- PARTY VERIFICATION

FH 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 FH requires additional information that is not available in EIV and/or the tenant is unable to provide FH 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, FH 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]

It is required that all adult family members, live in aides and adult foster children 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 CSF-15 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, moves, 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 FH 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), FH 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), FH is required to do the following:

- i. Review the EIV Income Report/IVT 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.

D. For each Annual Reexamination (form HUD-50058 action type 2) of family income and composition, FH 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 FH), 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 FH), traditional third-party verification form(s).

7.5 INCOME TYPES TO BE VERIFIED

7.5.1 EMPLOYMENT INCOME

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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 increases 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:

- EIV income and IVT reports 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 FH'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 dated within the last 60 days.

Note: Social Security benefit information in EIV is updated every three months. If the family agrees with the EIV-reported benefit information, FH 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.

- Submit request via EDD website.
- Telephone contact with appropriate agency is documented in FH 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.

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7.5.4 WELFARE PAYMENTS

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

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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, FH 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 4.

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 FH 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 FH in client file.
3. Documentation provided by the applicant/participant
4. Printout from Family Support Division
5. 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, FH will view IRS federal income tax return, and financial documents from prior years and use this information to anticipate the

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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:

1. 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 FH educates the family on the verification method required of the family; FH may require the family come back in 90 days for an interim appointment with the verifications required for this type of income.

4. FH may elect to have the client self-certify using the Self Employment Form, if taxes have not been filed.

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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), FH 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 childcare 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]

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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, FH 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

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

7.5.10 ZERO ANNUAL INCOME STATUS

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

FH may request information from the State Employment Development Department.

FH will require the family to complete a Zero Income Affidavit.

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7.5.11 FULL-TIME STUDENT STATUS

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 FH, the file must be documented with the reason.

7.6 INCOME FROM ASSETS

Examples of excluded assets can be found in Appendix D

7.6.1 SAVINGS ACCOUNT INTEREST INCOME AND DIVIDENDS

Will be verified as follows:

1. Account statements, passbooks, certificates of deposit, or FH 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 FH 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

Mandatory Policy

FH must determine the value of net family assets, and the income earned on assets, at admission and annually. Additionally, FH must fully verify assets every three years by obtaining third-party verification of all family assets. Third-party verification of assets is always required when net family assets exceed \$50,000, adjusted annually by HUD.

When fully verifying assets, FH are required to obtain a minimum of one account statement to verify the balance of accounts and any interest accrued on the account, such as checking and savings accounts.

Considerations

Net family assets include all assets except those specifically excluded in 24 CFR 5.603(b)(3).

FH must include the value of any business or family assets sold by an applicant or tenant for less than fair market value (including a disposition in trust, but not in foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, in excess of the amount received.

In the case of a sale as part of a separation or divorce settlement, the sale or other disposition will not be considered to have been for less than fair market value if the applicant or tenant receives other compensation not measurable in dollar terms.

Negative equity in real property or other investments does not prohibit the owner from

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selling the property or other investments, so negative equity alone would not justify an exclusion from family assets.

For a family with net family assets (as the term is defined in § 5.603) equal to or less than \$50,000, which amount will be adjusted annually by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, an owner may accept, for purposes of recertification of income as well as at admission, a family's declaration under § 5.618(b), except that the owner must obtain third-party verification of all family assets every 3 years.

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FH 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.
- FH will accept a family's declaration of the amount of assets equal to or less than \$50,000 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, FH 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 HEALTH AND MEDICAL CARE 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 most current IRS Publication 502, Medical and Dental Expenses, will be used as a guide to assist in determining allowable medical expenses in instances when the regulations or FH policies are unclear.

Health and 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 **ten percent (phased in over 2 years)** 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. FH 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: FH 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 they:

- Exceed ten percent of the annual income (phased in over 2 years);
- 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.

Required Certification / Verification:

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; and
- 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. For 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); and
- 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.

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7.8.4 MEDICARE PRESCRIPTION DRUG

The permanent Medicare Prescription Drug Plan benefit took effect January 1, 2006. FH'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 FH 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 AND DOCUMENTATION OF AGE

Regulations at 24 CFR 982.516(a)(2)(iv) state that a PHA must verify "other factors that affect the determination of adjusted income." Such factors include spousal relationships, age, and citizenship status, among others.

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required. Original documents that may support the reported age or legal identity of a family member may include the following:

Adults	Minors
• Certificate of Birth, naturalization papers • Current, valid Driver's license or Department of Motor Vehicles Identification Card • U.S. military discharge (DD 214) • Current U.S. passport • Church issued baptismal certificate • Current employer identification card with picture • An original document issued by a federal, state, or local government agency with the individual's name and SSN.	• Certificate of birth • Church issued baptismal certificate • Adoption papers • Custody agreement • Health and Human Services ID • Certified school records • Hospital Records (other than a crib card)

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This could include welfare agency documents, military papers, unemployment insurance documents, Social Security or retirement benefits, or any other government-issued documentation.	

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If none of these documents can be provided and at FH's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to FH and/or be signed in the presence of a FH representative. Legal identity will be verified for all applicants at the time of eligibility determination and in cases where FH has reason to doubt the identity of a person representing him or herself to be a participant.

7.9.2 FAMILIAL RELATIONSHIPS

The relationship of each household member to the head of household (HOH) may affect the determination of adjusted income and must therefore be verified (24 CFR 982.516(a)(2)(iv).

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Verification of Marital Status

Marital status could affect the determination of total or adjusted income. Examples would be when the person designated as spouse of the head is working and under 18, or if the head is not elderly or disabled but the person designated as spouse of the HOH is disabled. It could also affect the family's eligibility for the program, depending on the PHA's definition of family. *There may be times when documentation is needed when staff doubt the validity of the marital relationship.*

Certification by the head of household is normally sufficient verification. If FH has reasonable doubts about a marital relationship, FH will require the family to document the marriage. A marriage certificate generally is required to verify that a couple is married.

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Separation or Divorce

Certification by the head of household is normally sufficient verification. If FH has reasonable doubts about a separation or divorce, the FH will require the family to provide documentation of the divorce or separation.

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.

7.9.3 VERIFYING FAMILIAL RELATIONSHIPS

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The following verifications are examples of what may 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
- Income Tax Records
- Medical/Insurance Plan

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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 "Applicant Family" is not Related by Blood, Marriage, Adoption, or Other Operation of Law, Evidence of:

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- 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

Certification by the head of household is normally sufficient verification. If FH has reasonable doubts about a person's absence, FH may consider any of the following as verification:

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- 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 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.
- If no other proof can be provided, FH will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

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7.9.5 VERIFICATION OF CHANGE IN FAMILY COMPOSITION

FH 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 benefits must be received from 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 FH gets written certification that the disability is permanent, FH 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 FH hearing is pending.

- Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. FH 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 FH

- 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. FH verifies the status through the INS SAVE system. If this primary verification fails to verify status, FH 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, FH must conduct the determination.

Extensions of Time to Provide Documents

FH 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 FH 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(g), PIH Notice 2018-24]

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 2018-24, Section 6 for a description of the three types of SS cards that SSA issues.)
- Documentation issued by the Social Security Administration that contains the name and SSN of the individual (e.g., a benefit award letter, Medicare card, or printout).
- An original document issued by a federal, state, or local government agency with the individual's name and SSN. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation.

Rejection of Documentation

FH 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, FH should explain the reason for the rejection and request that acceptable documentation be provided **within ten calendar days of the request date.**

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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.
- FH must submit the form no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.

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.

FH 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 FH. FH will maintain the declaration in the tenant file "for the duration of tenancy" and up to three years after program participation ends.

FH 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, FH 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 FH 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 the age of six (6) and who have not been assigned a SSN, may be added, with a grace period of 90 days to provide SSN documentation. FH will grant one additional (90)

day extension (for a total of 180 days) if needed for reasons beyond the participant's control such as delayed processing of SSN application by the SSA, natural disaster, fire, death in family, or another emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, FH will terminate the individual's assistance.

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 Chapter 4.18 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), FH 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 FH, if in its discretion; it determines that there were unforeseen circumstances beyond the participant's control. In such cases FH will allow up to an additional 90 calendar days to disclose the SSN.

If the family is unable to comply with the requirements by the specified deadline, FH 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 FH 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 REAUTHORIZATION ACT OF 2022 (VAWA 2022)

When a survivor 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 survivor of a domestic violence act) , FH will require that the individual certify via a HUD-approved certification form that s/he is a survivor 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 FH 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 survivor service provider, an attorney, or a medical professional, from whom the survivor 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.

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CHAPTER 8: VOUCHER ISSUANCE AND BRIEFINGS

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

8.1 INTRODUCTION

When eligibility has been determined, FH 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, FH 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 ONE: BRIEFING

8.2 INITIAL APPLICANT BRIEFING

[24 CFR 982.301]

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. At the discretion of FH, briefings will be conducted either online or in person. Families who attend a 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, FH will provide translation services as described in Chapter 1, *Limited English Proficiency (LEP) Translation Services*.

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. FH also includes other information and/or materials which are not required by HUD.

If the family includes a person with disabilities, FH will ensure compliance with 24 CFR 8.6 to ensure effective communication.

8.2.1 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

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- Where the family may lease a unit, including renting a unit inside or outside FH jurisdiction
- For a family that qualifies to lease a unit outside FH's jurisdiction under portability procedures, the information packet must include an explanation of how portability works. FH will not discourage the family from choosing to live anywhere inside or outside FH'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 show various areas with housing opportunities outside areas of poverty or minority concentration both within its jurisdiction and neighboring its jurisdiction. FH has assembled information about the characteristics of those areas which may include information about job opportunities, schools, transportation and other services. FH 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.
- [An explanation of the Reasonable Accommodation process.](#)

8.2.2 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 FH policy for approving a request for additional search time; and FH'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 FH determines housing assistance payment for the family including:
 - a) How FH determines the payment standard for the family
 - b) How FH determines Total Tenant Payment (TTP); and
 - c) Information on the payment standard and FH utility allowance schedule
4. How FH 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 including a portability contact person list of neighboring PHA's: [how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.](#)
6. HUD-required tenancy addendum, which must be included in the lease.
7. [An explanation of the Request for Tenancy Approval \(RTA\) form and process of how to request such approval.](#) FH policy on providing information about families to prospective owners.

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8. FH subsidy standards (how the bedroom size of a voucher is determined by FH) including when FH will consider granting exceptions to the standards; and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504 of the Fair Housing Act, or the Americans with Disabilities Act; also, how voucher size relates to the unit size selected.
9. Contact information for the Section 504 coordinator, information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, and the Americans with Disabilities Act. The HUD brochure entitled "A Good Place to Live" on how to select a unit that complies with HQS.
10. The HUD brochure entitled "A Good Place to Live" on how to select a unit that complies with HQS. 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. FH will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws.
12. A list (link) of landlords willing to lease to assisted families, as posted on FH website. (for example, online search tools)
13. If the family includes a person with disabilities, FH will provide a list of available accessible units known to FH upon request.
14. The Family Obligations under the program.
15. The grounds on which FH may terminate assistance for a participant family because of family action or failure to act.
16. FH informal hearing procedures including when FH 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 FH 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
22. In an effort to inform housing and neighborhood choice, area maps representing housing opportunities located in the city and county with less concentrated poverty (identified by census tract) are also included in the briefing packet. Families must sign a statement acknowledging receipt and understanding of the briefing packet.

8.2.3 SCHEDULING THE BRIEFING

FH 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

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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 FH, may be denied issuance of a voucher based on failure to attend the briefing.

The applicant family may request the briefing be done at their home due to reasonable accommodation.

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8.3 ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

8.3.1 FH-IDENTIFIED AREAS OF POVERTY AND MINORITY CONCENTRATION

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

FH 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 the City of Fresno. 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.

FH 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

FH will provide a link to a list of owners that can assist families in locating units outside impacted areas. This Rental Listing is located online at www.affordablehousing.com. Copies may be obtained by the family when they attend a briefing upon request.

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8.3.5 PORTABILITY/AREAS WHERE THE FAMILY CAN LIVE

The briefing packet contains FH 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 FH. Each year over 40% or more of the families have been living in low poverty areas. While the City of Fresno 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 TWO: VOUCHER ISSUANCE

8.4 ISSUANCE OF VOUCHERS

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

When funding is available, FH 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.

FH 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 FH 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.

FH may set the voucher term at 60 days or longer depending on market conditions, vacancy rates and time to lease (leasing success rates). 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 FH.

8.5.1 SUSPENSIONS

[24 CFR 982.303]

When a Request for Tenancy Approval is received, FH 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

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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 FH, 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, a family emergency, or VAWA, 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 FH has disapproved (i.e., FH 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.

FH 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 FH Office to request assistance. Families may also access listings of available units by contacting our office or visiting our agency website at www.fresnohousing.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 FAMILY BREAK UPS

[24 CFR 982.315]

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L, the FH must ensure that the survivor retains assistance.

FH shall have discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up. FH will require information to determine who will be issued the voucher.

Other factors to be considered in making this decision includes:

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 domestic violence, dating violence, sexual assault, or stalking.
4. Whether any of the family members are receiving protection as survivors of domestic

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violence, dating violence, sexual assault, or stalking, and whether the abuser is still in the household.

5. 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.
6. Recommendations of social service agencies or qualified professionals such as Fresno County Child Welfare Services.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, FH will terminate assistance on the basis of failure to provide information necessary for a recertification. If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the FH is bound by the court's determination of which family members continue to receive assistance in the program.

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 FH 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. FH 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 FH, and pass criminal background screening requirements.

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

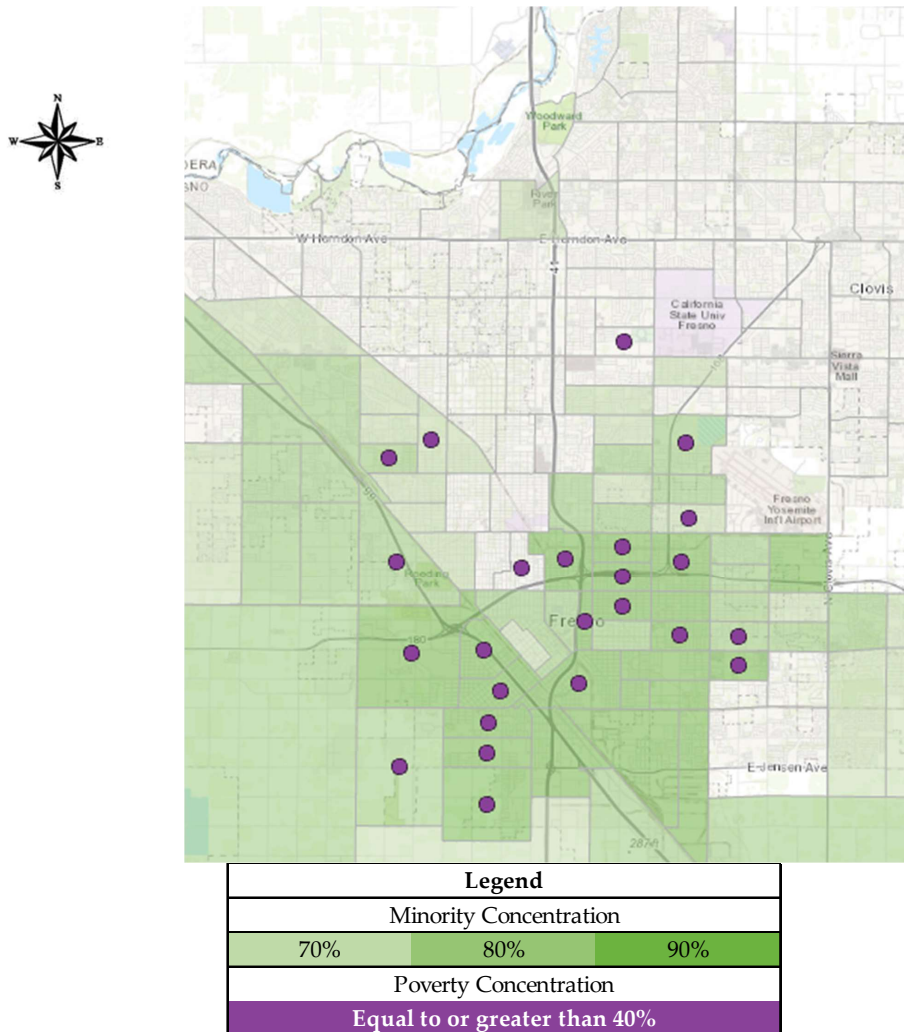
8.8 VOUCHER ISSUANCE OF PRIORITY

FH's established order of priority for the Housing Choice Voucher program, as set forth in FH's Annual Plan, are prioritized in accordance with the following HCV Priority Codes (1= highest ranking; 7 = lowest ranking) (24 CFR 982.251 (2), 24 CFR 982.261 (a), (b), (c).

Order of Priority	
Priority	Program Type & Requirements
1	PBV PBV Participant must have fulfilled the project-based voucher lease for a minimum of 12 months.
2	VAWA Protection Current survivors of domestic violence, dating violence, sexual assault, or stalking.
3	FUP-Youth- - 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.
4	FUP- Families - 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
5	PBRA - Must have fulfilled the PBRA lease for a minimum of 24 months. - Given proper notice, no debts owed, and in good standing.
6	VASH Will be considered when program reaches 98% utilization or above.
7	All other HCV applicants

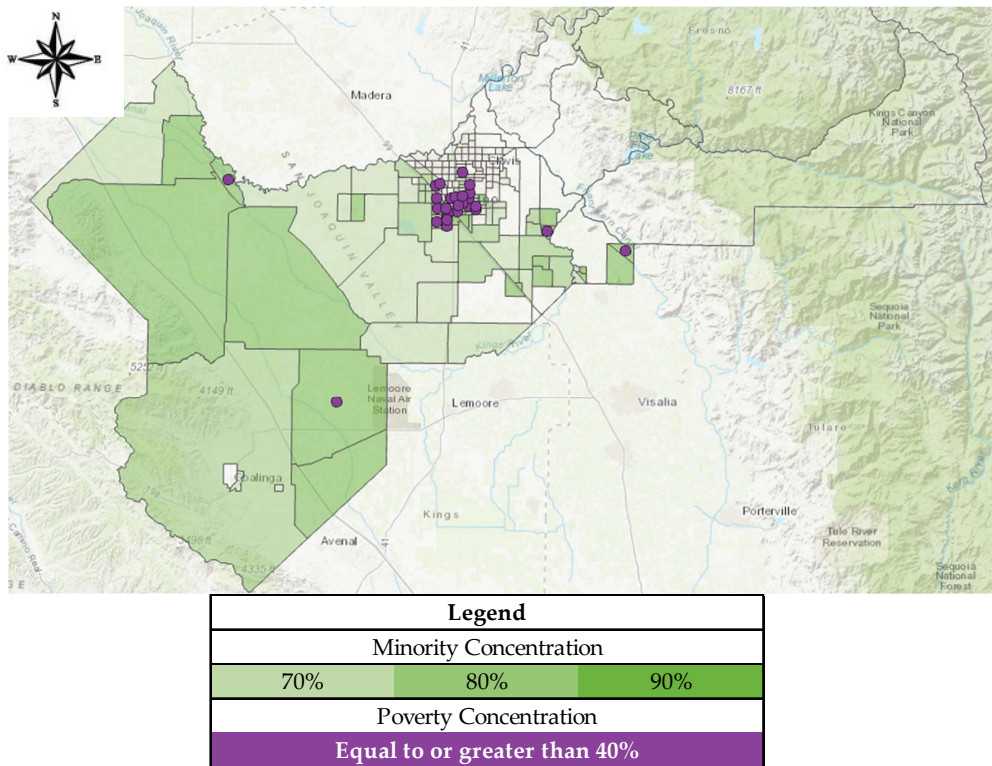
MAP A: AREAS OF MINORITY AND POVERTY CONCENTRATION, FRESNO METROPOLITAN AREA

Map A: U.S. Census Bureau (2021). Minority and Poverty rates, 2014-2019 American Community Survey 5-year estimates.



MAP B: AREAS OF MINORITY AND POVERTY CONCENTRATION, THE COUNTY OF FRESNO

Map B: U.S. Census Bureau (2021). Minority and Poverty rates, 2014-2019 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 FH. This chapter covers FH'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 FH for consideration and approval of a new tenancy.

9.2.1 REQUIREMENTS FOR RFTA APPROVAL

[24CFR 982.161, 982.302(c), 982.305, 982.306]

The family and/or Owner must submit the RFTA packet. The RFTA must be signed by both the owner and voucher holder. FH will not permit the family to submit more than one RFTA at a time.

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

- 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 owner is approvable, and there are no conflicts of interest. The owner has not been debarred by HUD; or disapproved by FH in the last three years. [CFR 24 982.161 (a)] ref Chapter 9.11
- All applicable lead-based paint disclosure requirements have been met; (see Chapter 10, *Lead-Based Paint & HQS*).
- The unit is not subject the restriction on renting from relatives' rule; see Chapter 9.4.

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

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[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 FH (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.
- FH may not permit a voucher holder to lease a unit which is receiving project-based HCV assistance or any duplicative rental assistance.

9.3.2 SPECIAL HOUSING TYPES

[24 CFR 982.601-624]

Requests for Tenancy Approvals will be accepted for the following housing types. For detailed descriptions of these housing types refer to Special Housing Types chapter.

- Single Room Occupancy
- Congregate Housing
- Group Homes
- Shared Housing
- Cooperative Housing (RA only)
- Manufactured Homes (including manufactured home space rental)
- Homeownership

9.3.3 INELIGIBLE HOUSING TYPES

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[24 CFR 982.352(a)]

FH 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 HCV Homeownership Option described in the Special Housing Types chapter 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 FH 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 FH 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).

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9.6 DISAPPROVAL OF RFTA

[24 CFR 982.302(d)]

If FH determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. FH 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.

FH 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 FH [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]

FH 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. The Tenancy addendum will be sent to the Owner during the data entry process. The Tenancy addendum requires the signature of the Owner and Tenant.

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.
- The proposed lease complies with HUD and FH requirements.

A lease rider/addendum is 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

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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 FH.

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.

FH 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 FH. If agreements are entered into at a later date, they must be approved by FH 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 FH determines rent reasonableness.

9.9 TERM OF ASSISTED TENANCY

[24 CFR 982.309]

The initial lease term must be for at least one year (12 months) 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].

9.10 INFORMATION TO OWNERS

[24 CFR 982.307(b), 982.54(d)(7)]

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In accordance with HUD requirements, FH 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 FH's records; and
- If known to FH, the name and address of the landlord at the family's current and prior address.

FH will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

FH 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 FH's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

FH will provide this information orally to the prospective landlord.

FH'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]

FH will not approve an assisted tenancy if informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation.

Mandatory Disapprovals (24 CFR 982.306(b))

FH will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed FH that the owner has been disbarred, suspended, or subject to a limited denial of participation under [24 CFR part 24].
- HUD has informed FH 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 FH 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 FH.

FH may periodically check the following website address to determine if an owner has been debarred from participation under 24 CFR Part 24 at <https://www.sam.gov/portal/SAM>.

Discretionary Disapprovals (24 CFR 982.306(c))

FH will publish the names of owners affected by this policy through internal memoranda and

will take other action as needed to prevent contracting with such owners. The following violations may result in a discretionary disapproval by FH:

- 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 Chapter 9.4.
- 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 HCV 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 HCV 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 cited in Chapter 10: Housing Quality Standards and Inspections.
- The owner has not paid State or local real estate taxes, fines or assessments.

For purposes of this section, "owner" includes a principal or other interested party, such as the owner of a property, as well as, one or more principals of ownership or other interested parties in the property or ownership, 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, FH 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 FH

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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, FH 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 non-compliance/number of violations of said parties, among others. Upon consideration of such circumstances, FH 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)]

FH prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and FH will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. FH will retain a copy of all signed documents.

FH 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 FH 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. FH 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.

FH 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;
- A copy of the owner's IRS Form W-9 indicating the Employee Identification Number or Social Security Number of the new owner;
- W-9 substitute
- Owner Authorization form identifying Housing Assistance Payment Payee
- Owners current address and phone number
- Financial institution account information for EFT payment processing.
- Management agreement (if needed)
- A written agreement to comply with the terms of the HAP contract
- A certification that the new owner is not a prohibited relative

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9.14 CHANGE IN MANAGEMENT

FH 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(a); FR Notice 01/18/2017]

10.1 INTRODUCTION

Chapter 10 describes FH's policies 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 FH 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 site and neighborhood, as well as the unit.

There are four types of inspections FH will perform:

- **Initial/Move-in:** A unit must pass the HQS inspection before the Housing Authority will enter into a HAP Contract with the owner. If a pre-inspection was conducted on the unit, it is only valid for 30 days from the date of the inspection.
- **Annual:** FH may conduct HQS inspections at least biennially to ensure the unit continues to meet minimum HQS requirements; however, FH 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 conducted at the request of the owner, family or FH-approved entity and may also be initiated by FH. This inspection may be conducted without notice to verify program compliance.
- **Quality Control:** FH is required to perform quality control HQS inspections.

FH-Owned Units

FH must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a FH-owned unit. A FH-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 FH; see Chapter 22.13.6 – FHA-Owned Unit). FH will notify the family and owner of 3rd party inspection results. The independent agency must be approved by HUD, and may be the unit of general local government for FH's jurisdiction.

Virtual HQS Inspections

In accordance with HUD requirements, FH may conduct the HQS inspection virtually. The family and owner are notified of the date and time of the inspection appointment by mail. If

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the family is unable to conduct a Virtual Inspection due to lack of technology, or physical restrictions, they may authorize a representative who is 18 years of age or older to be present and facilitate the Virtual Inspection. A Virtual Inspection will be initiated by inspector using a family preferred method, including but not limited to, FaceTime or Google Duo. Virtual inspections are at the discretion of the department.

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The family may decline the Virtual Inspection and will notify FH in writing if a physical inspection is preferred. FH will then reschedule the inspection and the family and owner will receive a letter with a new scheduled date for the Inspector to physically inspect the assisted Unit.

The Virtual HQS Inspection will be performed in accordance with the HQS minimum quality standards set forth by HUD in 24 CFR 982.401 for tenant-based programs.

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 FH 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 be at the inspector's discretion, depending on the amount and complexity of work to be done. Subsequent re-inspections will be scheduled at FH's discretion.

If the time period of 30 days given by FH 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.

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10.2.2 ANNUAL HQS INSPECTIONS

[24 CFR 982.405(a)]

In accordance with HUD requirements, FH may conduct an HQS annual inspection for each unit on the program at least once every 24 months. However, at its discretion, FH will conduct annual 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 FH to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551 (d)].

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Inspection

The family and owner are notified of the date and time of the inspection appointment by mail

and/or email. 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.

A "No Entry" inspection includes:

- The family was not home or did not answer the door.
- No adult present (18 years or older) in home.
- A loose animal prevented entry onto the property.
- The inspector was not allowed entry to the unit.

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 FH.

Re-inspection

The family and owner are mailed a notice of the inspection appointment. If the family or owner 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 FH to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, 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 responsible party 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 FH's discretion, if the work is not completed, FH will begin the abatement for owners or termination of assistance for family breach of HQS.

FH Inspections Supervisor, assistant manager or manager will approve extensions for non-emergency repairs.

10.2.3 SPECIAL/COMPLAINT INSPECTIONS

[24 CFR 982.405(c)]

If at any time the family, owner, or FH approved entity notifies FH that the unit does not meet

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HQS, FH may conduct an inspection. FH may attempt to verify that the family has submitted a maintenance request to the property manager or owner prior to requesting a complaint inspection. In addition, the owner may be asked to provide copies of notices to FH served to the family to cure any lease violations, prior to a complaint inspection being conducted.

FH may also conduct a special inspection based on information from third parties such as neighbors, the public health department, or public officials. HQS Inspectors identify units as needing a special inspection during neighborhood walks or in the course of performing other scheduled inspections.

FH 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 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)]

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)]

FH 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:

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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 FH, the size of the unit will remain at the lower unit size.

Thermal Environment: Heating system in an 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, Carbon monoxide alarms are required to be mounted on the wall or ceiling or other location as specified in the manufacturer's installation instruction and located as specified below. If retrofitted, alarms may be battery operated where existing building was built prior to January 1, 2011 and exempted per (CRC § R315.4, R315.6). In most cases where no construction occurs or where walls and ceiling finishes are not exposed, or where access cannot be provided via attic, basement or crawl space to hardwire the power sources and interconnect units. · Outside of each separate sleeping area in the immediate vicinity of bedrooms · On every occupiable level of the dwelling unit including basements · Where a fuel-burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.all units must have a working carbon monoxide detector installed.

Smoke Detectors:

Water heaters: Earthquake Straps for Water Heaters: Must be secured for seismic stability. All water heaters must be braced, anchored or strapped to prevent falling or movement during an earthquake (2010 CPC 508.2).

Other Structures: non-permitted, converted free-standing or attached garages or other structures (laundry rooms) not intended to be living areas will be inspected to ensure the safety of the residents.

Conversions: Owners may be required to provide finalized permits when the integrity and/or soundness of a structure are in question.

Elevators: Must have a current permit issued by the State of California. If the permit is expired and the owner can provide documentation from the State of California that the application is being process, the Housing Authority will pass the elevator in accordance with Section 7302 of the Labor Code as long as there are no obvious safety concerns present.

Access: The dwelling unit must be able to be used and maintained without unauthorized use of other private properties.

Landscape maintenance: Trees, shrubs and landscaping must be adequately maintained (County Code – Fresno Zoning Ordinance 850.B.6.3.

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.

Parking: Parking on the front yard or unapproved surface is prohibited (County Code – Fresno Zoning Ordinance 850.B.5.1.2.

Prohibited Vehicles: Front yard storage of boats, personal watercraft and trailers is prohibited

(County Code – Fresno County Code of Ordinances, Title 11 Chapter 11.45 Prohibited Vehicles).

Inoperable Vehicles: Abandoned/inoperable vehicles on the public right of way is prohibited.

10.4 HQS DEFICIENCIES

[24 CFR 982. 404(a) and (b); FR Notice 01/17/2017]

10.4.1 EMERGENCY FAIL DEFICIENCIES

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, FH will immediately notify both parties by telephone, or email. In the event FH 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 FH. FH will make every effort to confirm with the client by phone that the emergency repairs have been completed. FH also will follow up to confirm the repair has been corrected by conducting a re-inspection by the next FH 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 FH.

If the emergency/life-threatening deficiencies are not corrected within 24 hours and the owner is responsible, the Housing Assistance Payment will be abated beginning 24 hours from the initial inspection date. The HAP contract will cancel within 5 days from the re-inspection date, if the life-threatening deficiency is not corrected. During the abatement period, the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. Refer to section 10.6.2 Termination of Contract when repairs are not corrected [24 CFR 982.404 Maintenance: Owner and family responsibility; PHA remedies. (a) Owner Obligation].

If the emergency repair item(s) are not corrected within 24 hours and it is an HQS breach which is a family obligation, FH will terminate assistance to the family, after providing an opportunity

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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 on all inspections other than initial inspections.

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, FH 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.

HQS Self-Certification

FH 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 FH with appropriate documentation, i.e., receipts, pictures, etc., that the items have been corrected.

Failure to return the HQS Self Repair 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.

The following deficiencies will not require a re-inspection if cleared by proper owner certification.

- Inoperable stove element
- Missing or broken oven/refrigerator handle
- Missing or torn refrigerator/oven seal
- Inoperable bathroom exhaust fan
- Exterior Lighting
- Damaged (not missing) outlet covers
- Minor faucet and/or plumbing leaks
- ~~Closet door off track~~
- Striker plate on door is missing or damaged
- Missing tack strips

• ~~Frayed carpet—not torn~~

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- Inoperable kitchen exhaust fan
- Kitchen and/or bathroom caulking – tub, shower and sinks
- ~~Chips in kitchen and/or bathroom sinks~~
- Missing or dirty air filters
- Other nonlife threatening deficiencies approved by Supervisor

The deficiencies must be cleared by an 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)(2)(I) and (II)]

For HQS deficiencies caused by the family, the family need not necessarily make the repairs but rather may be responsible for taking all steps permissible under the lease and State and local law to ensure the deficiency is corrected.

- If the HQS breach caused by the family is life-threatening, the family must take all steps permissible under the lease and State and local law to ensure the deficiency is corrected within 24 hours of notification. For non-life-threatening deficiencies, the compliance timeframe is within 30-days of notification (or any FH-approved extension).

The family is responsible for a breach of the HQS that is caused by any of the following:

- The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
- The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
- Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary "wear and tear").

If non-emergency violations of HQS are determined to be the responsibility of the family, FH will require the family make any repair(s) within 30 calendar days. 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, FH will initiate the termination of assistance process to offer the family an opportunity for an informal hearing in accordance with 24 CFR 982.552.

The inspector will make a determination of owner or family responsibility during the inspection. A failed item that is caused by the tenant may be listed as the responsibility of

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the owner to repair. It is at the owner's discretion to charge the tenant for the cost to correct the failed item. The owner or tenant may appeal this determination to FH within 10 business days of the inspection.

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.

10.6 CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)

[24 CFR 982. 404, 982.453; 24 CFR 982.404]

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. FH 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 10.3).

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

The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to FH 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 FH, and the family's file will be noted.

10.6.1 ABATEMENT

[24 CFR 982.404 (d)(2)(i) and (ii)]

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.

FH 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 be withheld during the abatement period and 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 FH'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, FH may require the landlord to pay a re-

inspection fee as determined by FH 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 at least 30 days prior to the termination of the HAP contract.

If repairs are completed before the effective termination date, the termination may be rescinded by FH if the tenant chooses to remain in the unit. Only two Housing Quality Standards inspections will be conducted after the termination notice is issued.

If the contract is terminated and the resident continues to reside in the unit. The resident will be financially responsible for the market rent.

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10.6.3 FAMILY RELOCATION ASSISTANCE

[24 CFR 982.404 (e)(3)]

The PHA may assist families relocating in finding a new unit, including using up to 2 months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, (i.e.: security deposits or other reasonable moving costs, as determined in this Plan. The family must be in program compliance and must not have outstanding inspection deficiencies at the abated unit. The family must provide FH with a security deposit disposition as proof the unit did not have tenant-caused damage or outstanding payments or debt to the owner.

FH will assist families with disabilities in locating available accessible units in accordance with 24 CFR 8.2(a)(3), such that FH will provide or direct the family to a current listing of available accessible units known to FH, and if necessary, otherwise assist the family locating an available dwelling unit. If necessary, as a reasonable accommodation for a person with disabilities, FH may approve a family request for exception rent under §982.504(b)(2).

10.7 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 FH will adopt the following policies. For all pre-1978 dwelling units with a child under six years of age, during the initial and annual inspections, FH 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

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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.

10.7.1 OWNER RESPONSIBILITIES

The owner must notify FH 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 FH 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 FH 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 FH.

10.7.2 FH RESPONSIBILITIES

FH staff will conduct a visual assessment at initial and periodic inspections. If during the inspection the family informs FH 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.

FH will attempt to obtain from the health department names and/or addresses of children with EIBLL's. Such information will be matched with FH address records of assisted families.

FH 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, FH 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 FH has received EIBLL notification by the health department or other medical health care provider, FH 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, FH 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.

10.7.3 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 FH's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. FH 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. FH 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 FH'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 FH to set payment standards at a level that is between 90 percent and 110 percent of the Fair Market Rent (FMR) for its jurisdiction.~~ FH 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.

~~HUD regulations allow FH to designate payment standard areas within each FMR area. FH may establish different payment standard amounts for such designated areas. FH has established payment standards within the basic range and payment standards in exception payment standard areas with the use of Small Area FMRs. In addition, FH may establish payment standards up to 120 percent of the FMR when specific criteria is met.~~

Basic Range Payment Standard Amounts [982.503(c)]

FH sets ~~its these~~ payment standards between 90% and 110% of the Fair Market Rents.

Exception Payment Standard Amounts based on Small Area FMRs [982.503(d)(2)] ~~Small Area FMRs (SAFMRs) PIH 2018-01~~

The usage of SAFMRs is designed to promote lease up in opportunity areas with rental assistance at a level that makes higher rent areas more affordable to voucher participants.

FH ~~may has elected to either opt in to the usage use of~~ Small Area FMR's ~~or set to establish Exception~~ Payment Standards ~~for select Zip Code areas that exceed the basic range for the metropolitan area/county. Exception Payment Standards are set between 90% and 110% of using~~ Small Area FMR's ~~in select ZIP code areas.~~

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Exception Payment Standard Amounts up to 120 Percent [982.503(3)(i)(ii)(iii)]

When the following criteria is met, FH may establish exception payment standards up to 120 percent:

- Fewer than 75 percent of the families to whom FH issued tenant-based vouchers during the most recent 12-month period for which there is success rate data available to have become participants in the voucher program;
- More than 40 percent of families with tenant-based rental assistance administered by FH pay more than 30 percent of adjusted income as the family share; or
- Such other criteria as the Secretary establishes by notice.

~~Should the usage of SAFMRs be utilized by FH, p~~ayment standard information will be made available in briefing materials. (Also see Ch. 22.27.3 payment standards applicable to project-based vouchers).

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 2016-05]

FH may approve an exception payment standard up to 120% of the Fair Market Rent to accommodate a disability.

FH 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.

EXAMPLE CALCULATION FOR EXCEPTION PAYMENT STANDARD CASES:

Fair Market Rent (FMR) for Unit Size	958
Family's monthly adjusted income	875
30% of monthly adjusted income	263
40% of monthly adjusted income	351
Difference between 30% and 40%	88
Contract Rent	950
Utility Allowance	205
Gross Rent (GR)	1,155
Adjusted Gross Rent (AGR): GR – (40% - 30%)	1,067
Percentage of FMR (AGR / FMR)	112%

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

FH 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

FH 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 amount is not a rent amount that every unit or resident will qualify for. It is used as part of the calculation. If the rent amount for the unit is reasonable, the payment

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standard amount is the maximum that FH can pay on behalf of the resident minus the TTP. 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, FH 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 FH increases or decreases its payment standard.

11.5.1 WHEN THE PAYMENT STANDARD INCREASES

If ~~thea~~ payment standard ~~amount~~ is increased ~~during the term of the HAP contract, FH will use the increased payment standard amount to calculate the monthly housing assistance payment for the family beginning no later than the earliest of: 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.~~

- ~~The effective date of an increase in the gross rent that would result in an increase in the family share;~~
- ~~The family's first regular or interim reexamination; or~~
- ~~One year following the effective date of the increase in the payment standard amount.~~

11.5.2 WHEN THE PAYMENT STANDARD DECREASES

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 amended the voucher program regulations at 24 CFR 982.505(c)(3) to reflect the changes made by HOTMA. FH will use the following policy for applying a decrease in the payment standard amount to families under HAP contract on the effective date of the decrease in the payment standard amount.

Hold Harmless

No reduction in subsidy. FH will continue to use the existing higher payment standard for the family's subsidy calculation for as long as the family continues to receive the voucher

assistance in that unit.

If a family's voucher size is reduced, any lowered payment standard will be applied at the first regular (annual) or interim reexamination following the subsidy standard change. This rule applies whether the family's voucher size was reduced due to a change in family composition or due to the PHA changing its subsidy standards (24 CFR 982.505 (c)(36).

~~{24 CFR 982.507(a)(2)(ii); 983.302(a)(2); 983.303(b)(1); PIH 2018-01}~~

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 will be used to determine the payment standard amount at the first regular (annual) or interim reexamination. ~~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]

FH is responsible for ensuring that the rents charged by owners are reasonable based upon objective comparable 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, FH 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 FH'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
- FH minimum rent (see Chapter 6)

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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
\$425	Maximum Subsidy
\$570	Gross Rent
-150	TTP
\$420	HAP Subsidy

11.8 MAKING PAYMENTS TO OWNERS

[24 CFR 982.451, 982.311(d)(1)]

Once the HAP Contract is executed, FH begins processing payments to the landlord. The effective date and the amount of FH 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/MODIFICATIONS

[24 CFR 982.507 and 982.308 (g)]

A rent adjustment is a request to modify 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 to increase or decrease the contract rent after the initial lease term or after one year (12 months) has lapsed from the effective date of the last HAP contract rent change. Rent increases may not exceed more than 5% plus the percentage change in the cost of living (CPI), as defined, or 10%, whichever is lower (Civil Code section 1947.12).

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The owner/agent must provide a copy of the written 60-day notice to increase rent to both the family and FH. The effective date of the rent increase will be the first day of the month following 60 days after FH's receipt of the owner's request, or the date specified by the owner, whichever is later. The following steps must take place before the request can be approved:

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- All requests must be submitted to the family and FH 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 FH with a copy of these changes. FH will execute a new HAP contract reflecting these changes.
- The amount requested cannot exceed rents currently charged by the owner for a comparable unassisted unit 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.

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 FH is not able to accept the amount of the owner's proposed increase because it exceeds FH's rent reasonableness determination for a comparable unassisted unit, FH will contact the owner to negotiate rent. FH 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, FH and the owner cannot reach an agreement on the rent adjustment, FH will send a letter to the owner denying the request for rent adjustment.

11.9.2 SPECIAL ADJUSTMENTS

[24 CFR 982. 520]

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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

FH is required to reexamine each family's income and composition at least every twelve months, unless family is selected for triennial reexaminations, 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 FH policies concerning reexaminations are presented in three parts:

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Section One: Annual Reexaminations. This part discusses the process for conducting annual reexaminations. FH may perform reexaminations for households on fixed incomes on a triennial basis.

Section Two: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Section Three: Recalculating Family Share and Subsidy Amount This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

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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.

SECTION ONE: ANNUAL REEXAMINATIONS

[24 CFR 982.516]

12.2 OVERVIEW

FH must conduct a reexamination of family income and composition at least every twelve months, unless family is selected for triennial reexaminations. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

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12.3 STREAMLINED ANNUAL REEXAMINATIONS

[24 CFR 982.516(b), PIH 2016-05]

HUD permits FH to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years FH may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. FH may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, FH must perform third-party verification of

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all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

12.4 SCHEDULING ANNUAL REEXAMINATIONS

FH 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.

FH will begin the annual reexamination process up to 120 days in advance of its scheduled effective date. Generally, FH 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).

The PHAFH also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

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12.4.1 NOTIFICATION OF AND PARTICIPATION IN THE ANNUAL REEXAMINATION PROCESS

FH 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 through the online portal or by mail, as requested.

Notification of the annual reexamination process will be sent by first-class mail and/or email. If requested, notification will contain the certification packet for completion and must be returned by the specified due date.

If the family is unable to complete the online certification or return the packet within the deadline, the family should contact FH 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, steps for non-compliance will be taken.

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.

12.5 CONDUCTING ANNUAL REEXAMINATION

As part of the annual reexamination process, families are required to provide updated information to FH 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).

12.5.1 ANNUAL REEXAMINATION

The family will be notified by email and/or 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, FH will provide the notice in an accessible format; home visits may also be requested for this purpose so FH can assist the family in completing their annual reexamination requirement. FH will also mail and/or email 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 upload to online portal or mail in all required information (as described in the reexamination notice) with their completed reexamination. The required information will include the Annual Re-examination Questionnaire, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, assets, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time their Annual Re-examination is returned to FH, must be provided within 10 calendar days of the written request for the incomplete information which FH will mail and/or email 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, and after the EIV hierarchy has been exhausted, the family will be sent a notice of FH's intent to terminate the family's assistance; (see Termination of Assistance chapter).

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12.5.2 CONDUCTING FACE-TO-FACE INTERVIEWS

While most reexaminations are conducted by mail/online, face-to-face or virtual interviews may be conducted at any time at FH discretion, or if needed by a person with disabilities as a reasonable accommodation.

When using this method FH 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 on the appointment notification.

12.5.3 DOCUMENTS REQUIRED FROM THE FAMILY

In the notification letter and/or email to the family, FH will include instructions for the family to complete the Annual Reexamination and provide the following documents:

1. Documentation of income for all family members
2. Documentation of all assets (at least every 3 years)
3. Documentation of any deductions/allowances

4. Questionnaire packet completed and signed by all adults.
5. Certified statement of family obligations
6. Social Security and/or Immigration cards and birth certificates for any new family members
7. Authorization for the Release of Information (HUD-9886A)
8. FH Consent Form

At annual reexamination, FH may use the same procedures for obtaining and verifying information that were used at admission; (see Chapter 7).

12.5.4 FAILURE TO RESPOND TO NOTIFICATION OF REQUIREMENT FOR ANNUAL REEXAMINATION

After receiving the reexamination notification, the family is required to complete and submit the annual reexamination with all requested documents on or before the due date listed (plus any extensions) 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.

12.5.5 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 FH's jurisdiction.

As part of the annual reexamination process criminal backgrounds may be conducted for adults (age 18 and over).

12.6 DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS

[24 CFR 982.552(b)(5), 5.609]

Reference Annual Income Exclusions for updates to student financial assistance.

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, FH 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

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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), FH will process a reexamination in accordance with the policies in this chapter.

12.7 ANNUAL RECERTIFICATION EFFECTIVE DATES

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date, and the family will be notified at least 30 days in advance.

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If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If ~~the PHAFH~~ chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by ~~the PHAFH~~, but will always allow for the 30-day notice period.

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If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date.

If a decrease is determined during completion of the annual reexamination, an Interim must be completed utilizing the RX packet to capture the decrease and made effective the first of the following month after receipt.

If ~~the PHAFH~~ chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by ~~the PHAFH~~.

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If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

FH must establish policies concerning the effective date of changes that result from an annual

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12.7.1 DETERMINING WHETHER DELAY WAS CAUSED BY THE FAMILY

If the family does not provide requested documentation by the deadline (plus extensions) the family will be considered cause of delay. Delays in reexamination processing are considered to be caused by FH if FH fails to act promptly in requesting or following up on required verifications.

SECTION TWO: INTERIM REEXAMINATIONS

[24 CFR 982.516]

12.8 OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and FH policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances FH must process interim reexaminations to reflect those changes. HUD regulations also permit FH 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.

FH must attempt to complete the interim within 30 days from the receipt of the family's written request and all required documents. Families generally are required to complete the interim reexamination process through the online portal or by mail.

This part includes HUD and FH policies describing the changes families are required to report and how FH will process both FH- and family-initiated interim reexaminations.

12.8.1 INTERIM REEXAMINATIONS

1. A family may request an interim determination of family income or composition because of any changes since the last determination. The PHAFH must conduct any interim reexamination within a reasonable period of time after the family request or when the PHAFH becomes aware of an increase in the family's adjusted income under paragraph (3) below. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but generally should not be longer than 30 days after changes in income are reported that must be processed in accordance with the final rule.

2. The PHAFH may decline to conduct an interim reexamination of family income if the PHAFH estimates the family's adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income.

3. The PHAFH must conduct an interim reexamination of family income when the PHAFH becomes aware that the family's adjusted income (as defined in § 5.611 of this title) has changed by an amount that the PHAFH estimates will result in an increase of ten percent or more in annual adjusted income or such other amount established by HUD through notice, except:

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- i. The PHAFH may will not consider any increases in the earned income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim examination where the family's income, of any type, decreased during the same reexamination cycle, reduction under paragraph (c)(1) of this section during the certification period; and
- ii. The PHA may choose not to conduct an interim reexamination in the last three months of a certification period.

4. PHAs are FH is required by HUD to process interim reexaminations for all decreases in adjusted income when a family member permanently moves out of the unit. (24 CFR §§ 960.257(b)(2); 982.516(c)(2); 882.515(b)(2); 891.410)

12.8.2 EFFECTIVE DATE OF RENT CHANGES

Timely reporting related to an increase in rent: When a family reports a change in family income or composition that will result in an increase in tenant rent, the family must be provided a minimum of 30 calendar days' notice of the rent increase. The rent increase will be effective on the first of the month following the end of the 30-day notice.

Timely reporting related to a decrease in rent: Families that report changes in family income or composition within 30 days calendar days from the effective date of the change that results in a decrease in tenant rent, the decrease will be effective the first day of the month after the date the family reports the change.

Untimely reporting related to an increase in rent: Families that do not report changes in family income or composition within 30 calendar days from the effective date of the change, that will result in an increase to tenant rent, will have the rent increase implemented retroactively to the first of the month following the date of the change leading to the interim reexamination. The family will owe a one-time payment equal to the difference in the rent paid and the new increased rent for each monthly rental period from the time of the change in circumstances through the date of the interim reexamination.

Untimely reporting related to a decrease in rent: When a family does not report a change in a timely manner that will result in a decrease in tenant rent, FH will implement the decrease no later than the first of the month following completion of the reexamination.

- However, FH may make a determination that the late report was due to circumstances outside of the family's control and that the decrease will be implemented retroactively. Situations that may warrant a retroactive rent decrease might include late reporting due to (but not limited to):
 - Medical emergency
 - Natural disaster
 - Wage theft by the employer
 - Disruptions to FH operations
- When the determination is made that the late report was outside of the family's

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control, then a retroactive decrease may be applied beginning on the later of the first of the month following the date of the actual decrease in income or the effective date of the most recent admission, interim, or annual income reexamination. A rent adjustment cannot be retroactive to a date prior to the last income examination.

In case of any rent adjustment, the family will be provided with clear, written communication after the interim reexamination that shows:

- Any one-time charge or credit due to a retroactive adjustment.
- The new monthly rent due.
- The date that rent is due.
- The date of the family's next annual income reexamination.

In the case of a HCV family, funds will be returned to the housing provider. Funds will only be provided directly to a family if they no longer reside in the unit.

i. If the family has reported a change in family income or composition in a timely manner according to the PHA's policies, the PHA must provide the family with 30 days advance notice of any family share and family rent to owner increases, and such increases will be effective the first day of the month beginning after the end of that 30 day period. Family share and family rent to owner decreases will be effective on the first day of the first month after the date of the reported change leading to the interim reexamination of family income.

ii. If the family has failed to report a change in family income or composition in a timely manner according to the PHA's policies, PHAs must implement any resulting family share and family rent to owner increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income. Any resulting family share and family rent to owner decrease must be implemented no later than the first rent period following completion of the reexamination. However, a PHA may apply a family share and family rent to owner decrease retroactively at the discretion of the PHA, in accordance with the conditions established by the PHA in the administrative plan and subject to paragraph (c)(4)(iii) of this section.

iii. A retroactive family share and family rent to owner decrease may not be applied prior to the later of the first of the month following:

- A. The date of the change leading to the interim reexamination of family income; or
- B. The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination)

12.8.3 FAMILY REPORTING OF CHANGE

FH requires that the family report all changes in income and family composition to FH within 30 calendar days of the change;

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12.8.4 ACCURACY OF FAMILY INCOME DATA

The PHA-FH will utilize the verification hierarchy to assure that income data provided by applicant or participant families is complete and accurate. The PHAFH will not be considered out of compliance with the requirements in this section solely due to de minimis errors in calculating family income but is still obligated to correct errors once the PHAFH becomes aware of the errors. A de minimis error is an error where the PHAFH determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income).

The PHAFH must take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share as a result of an error (including a de minimis error) in the income determination. Families will not be required to repay the PHAFH in instances where the PHAFH has miscalculated income resulting in a family being undercharged for rent or family share.

12.8.51 UPDATE VOUCHER SIZE

~~This section of the Admin Plan is now obsolete due to the HOTMA Final Rule May 7, 2024. 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.~~

12.9 CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

[24 CFR 982.551(h)(2)]

HUD requires FH adopt policies prescribing when and under what conditions the family must report changes in family composition; and when FH will conduct an interim reexamination.

~~When any new family member is being added, FH 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)].~~

In general, all changes to the family and household composition must be reported to FH within 30 calendar days or the next day the agency is open after the 30th calendar day.

FH “will” approve additional family members in the following cases:

- The addition of a family member as a result of birth, adoption, or court-awarded custody
- The addition of a minor child through a designated full-time custody arrangement granted through notarized, written permission from the parent or legal guardian of the child

FH “may” approve additional family members in the following cases:

- The addition of a spouse or registered domestic partner due to marriage or marital-type relationship, or

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- An adult child due to a recent discharge from the military,
- The addition of an elderly person or person with a disability who is a parent, grandparent or adult child of the HOH, spouse or registered domestic partner of the HOH.
- The biological parent of a minor child already in the household.

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Except for additions of adults as mentioned above, the addition of an adult to the household may be approved, however, the same adult may not be added more than once in a twelve-month period from the last approved certification effective date.

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FH will allow for a one-time exemption for adult children previously removed from a household to be placed back into the household

- They have been removed from the household one calendar year or less
- They are between the ages of 18-26

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All adults must meet eligibility screening criteria, where applicable, outlined in the Eligibility for Admission chapter and verified as outlined within the chapter.

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If FH determines an individual meets FH's eligibility criteria, and if the owner provides written permission to add the new family member to the lease, FH 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 FH determines that an individual does not meet FH's eligibility criteria, FH 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.

12.9.1 DEPARTURE OF A FAMILY OR HOUSEHOLD MEMBER

Families must promptly notify FH 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], FH 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 FH within 30 calendar days or the next day the agency is open after the 30th calendar day.

Failure to report to FH 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 FH will take when non-reporting issues occur, see Chapter 24, *Criteria for Investigation of Suspected Abuse and Fraud*.

12.10 CHANGES AFFECTING INCOME OR EXPENSES

The family is required to report all changes of income to FH. The sections below will outline when FH will conduct an interim reexamination based on the reported changes.

FH will not conduct an interim reexamination for increases in the family income, unless

- the family requests FH 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.

12.10.1 FAMILY REPORTING OF CHANGE

FH required that the family report all changes in income and family composition to FH within 30 calendar days of the change;

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12.10.2 FH-INITIATED INTERIM REEXAMINATIONS

When the family reports zero income, FH 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, FH may conduct an interim reexamination every six months.

12.11 PROCESSING THE INTERIM REEXAMINATION

12.11.1 METHOD OF REPORTING

The family must notify FH of all changes in income or household composition in writing or by utilizing the online portal.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if FH determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, FH 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 FH. This time frame may be extended for good cause with FH approval. FH 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.

SECTION THREE: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

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RENT CHANGE NOTICES AND HANDLING DISCREPANCIES

12.12 NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

FH 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 FH'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.

12.13 DISCREPANCIES

During an annual or interim reexamination, FH 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 the Owner or Family Debts to FH chapter.

12.14 SUBSIDY STANDARDS

[24 CFR 982.505(c)(64)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's-FH's subsidy standards, the new family unit size must be used to determine the payment standard ~~amount for the family~~ at the family's first annual or interim reexamination following the change in family unit size.

12.15 UTILITY ALLOWANCES

[24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in ~~the PHAFH's~~ utility allowance schedule [HCV GB, p. 12-5].

When there are changes in the utility arrangement with the owner, ~~the PHAFH~~ must use the utility allowances in effect at the time the new lease and HAP contract are executed. At reexamination, ~~the PHAFH~~ must use ~~the PHA-FH~~ current utility allowance schedule [HCV GB, p. 18-8].

FH Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

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CHAPTER 13: ALLOWABLE MOVES 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 FH's jurisdiction, or to a unit outside of FH's jurisdiction within the USA and territories under Portability procedures. The regulations also allow FH 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 FH's jurisdiction, 2) policies relating to transfers outside FH's jurisdiction, and 3) restrictions on portability.

Section One: Policies Relating to Allowable Moves Within FH's Jurisdiction

This section will explain the policies that FH must follow when a family is requesting to move their assistance from one unit to another within the jurisdiction, and any restrictions that apply.

Section Two: Policies Relating to Allowable Moves Outside FH's Jurisdiction (Portability)

This section will explain the policies that FH 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 FH's jurisdiction.

SECTION ONE: POLICIES RELATING TO TRANSFERS WITHIN FH'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. FH 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 survivor who is covered under the Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022). See Section 7.12, Verification Under VAWA 2022.

13.3 RESTRICTIONS ON MOVES

[24 CFR 982.314(e), 982.552(c)(1)(vii); 982.54 (d) (19)]

FH will deny permission to move if:

- The family owes FH 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)

FH will deny permission to move if there is insufficient funding for continued assistance.

13.4 ISSUANCE OF VOUCHER

FH will issue the voucher when the verifications are current. Refer to [HCV](#), Issuance of Vouchers, if verifications are over 60 days old at time voucher would be issued.

13.4.1 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.

13.4.2 NOTICE REQUIREMENTS

FH emphasizes the family's responsibility to give the owner and FH proper written notice of any intent to move.

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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 FH simultaneously. [Refer to 14.3](#)

13.4.3 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 982.355, PIH Notice 2016-09]

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.

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 FH'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 FH's jurisdiction, they are exercising their right to outgoing portability. In this instance FH acts as the Initial housing authority and the following information is a list of the responsibilities FH 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 FH and the owner
- Provide FH 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 their 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 FH 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 Chapter 13.7, Restrictions on Portability.
- 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 2016-09]

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

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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 is 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

FH will absorb all port-in families into its own voucher program if there is funding available. If funding is unavailable at time of portability, FH may absorb a family into its own program later once the HAP contract has been executed. After absorption, the family is assisted with funds available under FH's voucher program.

13.6.4 INCOME AND TTP OF INCOMING PORTABLES

As Receiving PHA, FH 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 FH, 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 FH's jurisdiction, FH 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, FH 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 FH'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 FH'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 FH 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. FH will deny permission to move if there is insufficient funding for continued assistance.

13.7 RESTRICTIONS OF PORTABILITY

FH will deny permission to move for the same reasons listed in Chapter 13.3 *Restrictions on Moves*, 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 FH may lease a unit anywhere in the jurisdiction of FH or outside FH jurisdiction as long as there is another entity operating a tenant-based HCV 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 the City of Fresno 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 FH and is not permitted to move

outside FH's jurisdiction during the initial lease term.

13.7.2 EXCEPTIONS TO THE NON-RESIDENT RESTRICTION

FH 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;
- Due to Natural Disaster as specified in Chapter 3.4.1;
- For purposes of reasonable accommodation of a family member who is a person with disabilities.

13.7.3 INSUFFICIENT FUNDING TO SUPPORT THE MOVE

FH 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 FH 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 Fresno Housing.

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 Fresno Housing are outlined in the Housing Assistance Payment (HAP) contract. The term of the HAP contract is the same as the term of the lease.

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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. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program.

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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 **survivor** 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]

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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 Fresno Housing 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 982.310] 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 Fresno Housing.

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 other 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 FH.

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 Fresno Housing in writing at least 30 calendar days in advance to avoid overpayments to the owner. The family must request to move and be eligible before receiving their move voucher and all the necessary documents to search for a new unit. Refer to Chapter 13-13.3.

In cases of domestic violence, the provisions contained in The Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022) 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

The Housing Authority will terminate the HAP contract as follows:

- When the Housing Authority terminates program assistance for the family.
- FH will check the Deceased Tenant report in HUD's EIV system monthly. In the case of a single –member household or where the remaining household member is a live-in aide, assistance and the HAP contract will terminate no later than the first of the following month in which the death occurred. No HAP will be paid for any month following the death.
- 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.
- Citizenship Status: FH will terminate program assistance if no member of the family is a U.S. citizen or eligible immigrant; [24 CFR 982.552 (b) (4)].

Any of the following actions will be considered a breach of the HAP contract by the owner:

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- 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 HCV 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)].

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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 HCV Homeownership Programs.

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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, FH 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]

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When a HAP contract terminates, the Housing Authority will make payments in accordance with the HAP contract. FH 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 contract 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-ratio of assistance provided for the family.

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CHAPTER 15: TERMINATION OF ASSISTANCE

24 CFR 982.551 through 982.553

15.1 INTRODUCTION

FH may terminate assistance for a family because of the family's action or failure to act. FH will provide families with 1) written description of the Family Obligations under the program, 2) the grounds under which FH can terminate assistance, and 3) FH's informal hearing procedures. This chapter covers termination of assistance under HUD regulations and FH policies; how circumstances are factored into FH's decision to terminate assistance; how a non-citizenship determination is reached; and how missed appointments and deadlines can result in FH decision to terminate assistance.

15.1.1 GENERAL DEFINITIONS

[24 CFR 5.100]

HUD and FH have defined the following:

Covered person, for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Drug means a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C 802).

Drug-related criminal activity (as defined in Section 102 of the Controlled Substances Act 21 U.S.C 802) 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 means any use or possession of illegal drugs during the previous twelve months.

Pattern of abuse is defined as the use of and/or possession 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.

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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 FH 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, FH 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
- Failure to maintain the assisted unit in accordance with Housing Quality Standards (HQS). The participant is responsible for keeping the unit in compliance with HQS, including maintaining the appliances, paying utility bills and ensuring continuous utility service for any appliance and utility that the owner is not required to provide under the lease and HAP contract. The participant is not responsible for owner-related HQS fail items.
- **The PHA must deny or terminate assistance based on the restrictions on net assets and property ownership when required by § 5.618 of this title.**

15.3 MANDATORY TERMINATION

FH 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 FH 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 FH 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 and persons residing in the immediate vicinity of the premises [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:** FH will terminate program assistance if any member of the family fails to sign and submit HUD-required or FH-required consent forms for obtaining information [24 CFR 982.552 (b) (3)].
10. **Citizenship Status:** FH 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), 24 CFR 5.612].
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. FH will terminate assistance if the family submits falsified Social Security number documentation [PIH Notice 2018-24].
13. **End of Participation:** If the family is under contract and 180 days (six months) have elapsed since FH’s last housing assistance payment was made, the family will be terminated.

15.3.1 ZERO ASSISTANCE TENANTS

[24 CFR 982.455]

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 FH 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)].

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

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

FH 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)].

If FH 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 (a) (1)].

Outstanding Debt: The family currently owes rent or other amounts to FH or to another housing authority in connection with HCV or public housing assistance under the 1937 Act [24 CFR 982.552 (c) (1) (v)]. Non Reimbursement to FH 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 FH to pay amounts owed to FH, or amounts paid to an owner by FH (FH, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to FH or amounts paid to an owner by FH. FH may prescribe the terms of the agreement) [24 CFR 982.552 (c) (1) (vii)].

Actual or Threatened Abusive or Violent Behavior toward FH Personnel: If the family has engaged in or threatened abusive or violent behavior toward FH 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 FH 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)].~~

Noncompliance: 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

FH may terminate assistance if FH 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 FH (including a FH employee or a FH 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.

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].

15.5 CONSIDERATION OF CIRCUMSTANCES

[24 CFR 982.552 (c) (2)] (i)]

HUD authorizes FH 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 Chapter 15.3 *Mandatory Termination*.

In deciding whether to terminate assistance because of action or failure to act by members of the family; FH:

- Has discretion to consider all relevant circumstances in each case, including the seriousness of the case. FH 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. FH 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.
- 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. FH 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*, FH may consider individual circumstances with the advice of Juvenile Court officials. FH will also consider whether the culpable member is a survivor 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, FH:
 - 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, FH 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.
- FH will also consider whether the family disclosed the information to FH under penalty of perjury when completing the certification packet.

If FH 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 FH provides notice to the family of FH determination to terminate assistance.

If the family intentionally willingly and knowingly *commits fraud* or is involved in any other illegal scheme with the owner, FH will terminate assistance. *In making this determination*, FH

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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

FH 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 show 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. FH will pursue fact-finding efforts as needed to obtain credible evidence.

15.5.2 NOTICE OF TERMINATION OF ASSISTANCE

In any case where FH decides to terminate assistance to the family, FH 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 FH, which is 10 business days from the date the letter is mailed.
- d. Provide VAWA documentation

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, FH 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 FH notice, to dispute the accuracy and relevance of the information. If the family does not contact FH to dispute the information within that 10-business day period, FH will proceed with the termination action.

15.5.4 CONFIDENTIALITY OF CRIMINAL RECORDS

Consistent with the limitations on disclosure of records, FH has established and

implemented a system of records management that ensures that any criminal record received by FH 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 FH 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. FH 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 FH'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 REAUTHORIZATION ACT OF 2022 (VAWA 2022)

Under the Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022) statutes, the abuser's criminal activity directly related to abuse and beyond control of the survivor shall not be grounds for termination. The legislation clarifies that FH may terminate a VAWA survivor if the individual is an actual and imminent threat to other tenants or the community. Also, if the survivor is evicted for unrelated criminal activity, this may be grounds for termination of the HCV assistance, provided FH does not hold the survivor 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 survivor of such actions and that the actions are related to domestic violence, dating violence, or stalking, FH will require the individual to provide a signed statement certifying that claim.

The required certification must be submitted to FH within 14 business days after FH request is received by the survivor. If the individual does not submit the required certification within the required 14-business day period, FH 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. FH must offer the family an opportunity for a hearing. (See "Eligibility for Admission chapter", Section on Citizenship/Eligible Immigration Status.)

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Assistance *may not* be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When FH 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, FH may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. FH will then verify eligible status, deny, terminate, or prorate as applicable. FH 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 FH either after the INS appeal or in lieu of the INS appeal.

After FH 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 FH 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
- Failure to provide requested documentation

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 12.5.4 Failure to Respond to Notification of Requirement for Annual Reexamination and Chapter 10.2.2 Annual HQS Inspections for more information on FH policy when appointments are missed.

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15.9 INFORMAL HEARINGS

[24 CFR 982.555]

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This information is covered in Informal Reviews and Hearing chapter.

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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 FH as listed in the FSS Action plan.

16.3 PROGRAM COORDINATING COMMITTEE (PCC)

[24 CFR 984.202]

FH collaborates with a program coordinating committee (PCC) consisting of representatives from the public and private sector. The PCC is responsible to assist FH 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]

FH will open the FSS waiting list as needed in order to maintain the minimum program size. When the waiting list is open, families may use any of the following options to be placed on the waiting list:

- Call FH

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- Submit an FSS Interest Form in person or by mail

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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 FH. 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 waiting list.

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16.5 DENIAL OF FSS PARTICIPATION

[24 CFR 984.303]

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FH may deny participation to families who:

- Owe money to FH 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 within 2 years of the exit/graduation date

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16.6 CONTRACT OF PARTICIPATION

[24 CFR 984.303]

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The head of the FSS Family is designated by the participant and must sign a Contract of Participation, which describes the rights and responsibilities of the FSS family and FH. The effective date of the contract is the first month following the date of enrollment. The initial term of the Contract of Participation will run the effective date through the 5 years anniversary of the first reexamination of income that follows the execution date.

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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
- FH 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 FH. 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 HCV 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 FH. 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 and Individual Training and Services Plan without good cause
- Failure to comply with the Contract requirements because the family has moved outside the jurisdiction of FH
- Failure to make contact with FH after written notification of non-compliance due to missing scheduled meetings and failure to return phone calls
- Failure to work on activities and/or goals set forth in the Individual Training and Services Plan
- If the FSS Family’s housing assistance has been terminated
- 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

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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 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.

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 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 FH
- Targeted completion dates for each individual interim goal
- Referrals for career, education, and job-related activities
- Final goal to obtain suitable employment
- Interim goal must include the requirement to be off welfare at the time of completion of the Contract, including any extensions. [24 CFR 984.303(b)(2)]
- Participant's signature and date
- FH 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 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. However, it will not be allowed to change within 12 months from the end of the term.

16.6.6 CHANGE IN HEAD OF FSS FAMILY

The FSS participant may designate a new Head of FSS Family if the current Head of FSS Family is unable to complete their obligations under the Contract of Participation. The request must be submitted to FH in writing. The new Head of FSS Family 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

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head of FSS Family 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.

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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, FH 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.
- Certified that all members of the household have not received welfare assistance at the time of the expiration of the term of the contract, including any extension thereof.

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FH 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)]

FH will mail an escrow statement to all FSS family at least once annually. The statement will include:

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- 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)]

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FH 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 Head of FSS Family has failed to obtain suitable employment on or before the expiration of the contract term, including any extension thereof
- An intergenerational family, whose Head of FSS Family 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 FSS 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 Head of the FSS Family 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.

16.7.4 SUCCESSION TO FSS ACCOUNT

[24 CFR 984.305(d)]

If the Head of FSS Family 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. FH must be consulted and must approve this change.

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The request for change of Head of FSS Family must be submitted in writing, and must include the following:

- The name of the new designated Head of FSS Family
- The signature of the new Head of FSS Family
- 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 FSS Family and FH 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 FH policies and HUD regulations supporting it. If the participant disagrees with the decision, an appeal may be made within fourteen (14) 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 FH 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 FH's FSS program if there are available FSS slots. The relocating family must submit a written request to FH 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. FH 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 FH 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.

16.10 IMPACT OF HOTMA ON FSS PROGRAMS

PHAs who operate FSS programs should note that families participating in the FSS program are subject to all HOTMA interim reexamination regulations. PHAs cannot implement local

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policy to perform an interim reexamination for increases in adjusted income below the 10% threshold for FSS participants.

Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised IR regulations may provide these families the opportunity to use their increased earnings to realize other short or long-term goals outside the scope of the FSS program.

The HOTMA interim reexamination regulations impact administration of the FSS program in the following ways:

1. FSS participants are subject to all requirements of the HOTMA interim reexamination regulations; and
2. At enrollment, PHAs may not perform an interim reexamination of annual income unless the family experienced a change in adjusted annual income that meets the threshold to perform an interim reexamination under the HOTMA final rule.
3. Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of their 5-year contract

CHAPTER 17: CONTINUUM OF CARE

17.1 INTRODUCTION

FH receives funding for from the U.S. Department of Housing and Urban Development (HUD) Continuum of Care Program (CoC) program to provide housing assistance and supportive services to serve individuals/families experiencing homelessness in the Fresno/Madera region. CoC program policies and procedures can be similar as that of the HCV program, with notations for CoC program specific policies. If there is a conflict between CoC program regulations and the Administrative Plan, CoC program regulations have precedence.

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FH provides CoC assistance under the Tenant-based Rental Assistance (TRA) of 24 CFR 578. 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 experiencing homelessness who have been diagnosed with the following:

- Mental illness;
- Physical/Intellectual Developmental Disability;
- Behavioral Health Issues, including substance use disorder;
- 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 **Error! Reference source not found.** and assistance will be issued accordingly.

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17.3 BOARD OF COMMISSIONERS

[24 CFR 578.19]

FH receives funding for the FMCoC program as a member of the Fresno-Madera Continuum of Care (FMCoC). The Fresno-Madera CoC provides for the consultation and participation of not less than one individual who is currently or formerly experienced homelessness serve on the FMCoC board of directors.

In addition, FH has resident and participant commissioners on FH Board. These individuals have the authority to vote on policy-making decisions.

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17.4 DEFINITIONS

Some key definitions for this program are listed below. Additional definitions can be found in 24 CFR 578.3

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Literally Homeless:

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - Lack a fixed, regular and adequate nighttime residence, meaning:
 - Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations (including transitional housing), hotels/motels paid for by charitable organizations, federal, state or local government; public or private place not ordinarily used as an accommodation for human being (lacks indoor plumbing, toilet facilities, bathing facilities, adequate or safe electrical service, heat, or kitchen);
 - Fleeing or attempting to flee domestic violence, dating violence, assault, stalking;
 - Has no other residence; and lacks the resources or support networks to obtain other housing.

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.

17.5 ELIGIBLE HOUSEHOLDS

The following households are eligible to participate in FH's CoC Program:

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1. Single person households, defined as an unaccompanied adult (age 18 or over);
2. Family households.

17.6 FAIR HOUSING POLICY

It is the policy of FH 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.

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FH shall not deny any family or individual the opportunity to apply for or receive assistance under the Continuum of Care program on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability.

17.7 REASONABLE ACCOMMODATION POLICY

It is the FH's policy to provide "reasonable accommodation" for CoC participants who are individuals with a disability, where reasonable accommodation is necessary to provide participants with an equal opportunity to use and enjoy the Agency programs and facilities. This policy is in furtherance of the Agency's goal of providing rental assistance to low-income persons regardless of disability and said policy is in compliance with applicable federal, state, and local law. A "reasonable accommodation" is a modification or change the FH can make to its procedures and rules, which would assist an otherwise eligible person with a disability to benefit from the Agency's programs, provided that the change does not pose an undue financial and administrative burden to the Agency or result in a fundamental alteration of its program.

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The availability of reasonable accommodations will be made known by including notices on FH forms and letters to all participants. These notices shall explain the process whereby a participant may request an accommodation. All requests will be verified so that FH can properly accommodate the need presented by the disability.

FH is also committed to assuring that all of its programs, services, and activities are accessible to all persons with disabilities, as well as the facility locations where the programs are housed, and to remove any barriers that would prohibit participation.

17.8 CONFIDENTIALITY OF APPLICANTS AND PARTICIPANTS IN COC PROGRAMS

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.

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FH'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 FH 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.

FH'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.

FH 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.

17.9 FRESNO MADERA CONTINUUM OF CARE, FH & OUTREACH

[24 CFR 578.17(c)]

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FH receives funding for the CoC program as a member of the Fresno Madera Continuum of Care (FMCoC). FH has representation on the FMCoC Board of Directors in the role of the FMCoC Collaborative Applicant. FH is also the HMIS Lead Agency for the FMCoC.

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FH 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).

In addition, outreach to the property owners will be provided through participation in apartment association meetings community presentations to create awareness of the need to house this target population.

FH will provide the following outreach activities:

- Provide the CoC procedure manual to all agencies that provide services to eligible individuals/families. The procedure manual includes information on how to refer a potential applicant to the program and will be updated on an as needed basis.
- Make presentations about the CoC Program at relevant venues (e.g. quarterly Continuum of Care Board meetings, Community Partnership monthly meeting) and upon request.
- Provide informational trainings as needed about CoC eligibility criteria and application process to representatives of the partnering agencies.

17.10 COORDINATED ENTRY SYSTEM

As a member of the FMCoC, FH participates in the local Coordinated Entry System (CES). Potential program participants are engaged through community outreach and wherever possible, diversion strategies are engaged. If diversion is not viable, at an appropriate point that is community defined, a community developed assessment is conducted. Based on score and community decisions on prioritization, a potential participant is matched to a FH or other FMCoC program whereby the individual/family chooses the intervention they feel best suits their needs. Participants in the CES process are normally assigned a CES Navigator who functions as an advocate for the participant – assisting with obtaining needed documentation, referral to relevant services chosen by the participant, decision making regarding the pros and cons of program selection, housing search and selection.

FH and the FMCoC prioritizes chronically homeless individuals and families and has committed to adopting a Housing First approach in CoC programs.

For homeless families with children, FMCoC seeks to mediate/prevent homelessness whenever possible, reduce the homeless episode for families through rapid rehousing (RRH) and shelter/transitional housing focused on moving families from homelessness to permanent housing as soon as possible, and permanently house the most vulnerable families, as resources are available. Information is gathered to determine the “best fit” intervention to prioritize families for more intensive services, as needed, using the community developed assessment through the coordinated entry system. Rapid Re-Housing projects serving homeless families with children will strive to place clients into permanent housing within 30 days of entering homelessness, and will not screen out families based on any criteria that will not impact future housing success, including age, gender or marital status.

For vulnerable, chronically homeless individuals, FMCoC utilizes a community developed assessment tool-, which identifies those who are most vulnerable and will prioritize placement and services for those highest in need, and additional assessment, for more in-depth understanding of participants and even more tailored placement and services. Referral systems are already in place and continue to be expanded for greater coverage.

If individuals are not chronically homeless, they will be targeted for the rapid rehousing, transitional housing, permanent housing, or income-based housing intervention that they are best matched to. Non-chronically homeless individuals who identify a substance abuse and/or mental health disorder and interest in receiving services for these concerns will be referred to the appropriate residential treatment programs.

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The Fresno Madera CoC has adopted the order of priority described in HUD's Notice CPD 14-012.

17.11 HOUSING FIRST

As a member of the FMCoC, FH strongly adheres to the concept of Housing First. As such, a CoC program participant is NOT required to maintain sobriety, adhere to a medication regime, have income or mandated to participate in services as a condition of assistance. Every effort will be made by FH and partner service providers to engage participants in those services they have interest in. Non-participation in services is not reason in and of itself for program termination. While it is understood in the FY2019 CoC NOFA, it became permissible to terminate participation in program based on nonengagement in services; FH may only employ this tactic in the most extreme of circumstances and in consultation with relevant community partners and FH agency leadership.

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17.12 HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS)

FH is one of many organizations that participate in HMIS. Data on CoC participants is entered into the HMIS system at the following times:

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- When a participant first enters the program;
- When a participant moves with continued assistance;
- Annually with recertification;
- When a participant exits the program.

17.13 PRE-APPLICATION PROCESS/REFERRAL AND VERIFICATION OF ELIGIBILITY

17.13.1 PRE-APPLICATION PROCESS

Coordinated Entry matches a participant to a CoC program whereby the participant chooses which program best suits their needs. As part of the CES process, documentation such as homeless certification, disability verification and identify verification are collected. The following information must be completed and submitted:

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1. Pre-Application and Referral Form
2. 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 professional trained to make such determination.
3. Homeless Certification Form- Must be provided for all individuals/families referred to the FH. Must include a signed verification with supporting documentation, see below.
 - For persons living on the streets: signed statement from outreach worker, other organization, or participant attesting to applicant's homeless status;
 - For persons living in emergency shelters: signed statement from shelter provider attesting that applicant is residing there
 - For persons exiting transitional housing: signed statement from transitional housing provider attesting that applicant is residing there and was homeless upon entry;
 - For persons leaving an institution following short-term stay (90 days or less): signed statement from institution verifying residence of less than 90 days and attesting that applicant was homeless at time of entry;

- For chronically homeless persons: one of the above documents to verify current status and duration of homelessness, plus, if applicable, a signed statement from the applicant attesting to past homeless episodes.
4. Chronically Homeless Certification Form (if applicable) - Must be provided for all individuals/families referred to FH. Must include a signed verification with supporting documentation, see below;
- 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.
- NOTE: Order of priority of documentation for homeless and/or chronic homeless certification shall be:
- a. third-party documentation;
 - b. intake worker observations; and
 - c. self-certification.
5. Authorization for the Release of Information/Privacy Act Notice (*HUD Form 9886*) – Must be provided to allow HUD and the FH to verify household income, in order to determine rental assistance payments.
6. Participant-Service Provider Agreement – Must be provided to ensure that the service provider and the program participant have agreed to comply with the roles and responsibilities of the program. It should be noted that in the Housing First philosophy; participation in supportive services is voluntary. Non participation in services is not, in and of itself a reason to terminate from the program.

17.13.2 VERIFICATION OF ELIGIBILITY PROCEDURES

Applicants must meet HUD's eligibility requirements for the CoC program to qualify for rental assistance. In order to determine final eligibility, FH will verify all information submitted by applicants. The CES process will provide a referral along with the supporting documents listed below:

- FMCoC Match form
- Homeless Certification
- Disability Certification
- Any other documentation collected; i.e. identification, income documentation

Once all the eligibility documents have been submitted, FH staff will review the packet for completeness and continue with the application process.

FH staff will conduct eligibility, third party verifications, and if determined eligible, the CES Navigator and the participant will be scheduled for an Application Meeting

17.13.3 CRIMINAL BACKGROUND CHECK

A criminal background check will be performed for head of household and all adult family members, 18 years of age and older, to determine if client or any family member is subject to a lifetime registration requirement under a State sex offender registration [24 CFR 982.553 (a) (2)].

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17.14 APPLICATION BRIEFING PROCESS

Once an applicant has been determined to be eligible for the CoC Program, FH will schedule an application meeting and will email a confirmation letter, and verbally notify the CES Navigator informing them of the appointment date and time.

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At the application meeting, FH will:

- Review the CoC policies and program requirements, including participant responsibilities;
- Explain the applicant's portion of the rent and how it was calculated;
- Explain the process for securing a housing unit;
- Review the signed:
 1. Application for Initial Occupancy
 2. Consent of Release of Information (Criminal Background)
 3. Contract of Participation
 4. Statement of Family Responsibilities
 5. County of Fresno Authorization Form
 6. Applicant/Tenant Certification.

In addition, the following documents will be provided to the CoC participant

1. Current rental listing of available units (including handicap assessable units).
2. Request for Tenancy Approval (RFTA)
 - a. RFTA Supplemental
 - b. Owner Authorization
 - c. Request for Taxpayers Identification Number and Certification (*IRS W-9 Form*)

Disclosure of Information on Lead-Based Paint and/or Lead Based Paint Hazard

17.14.1 ISSUANCE OF CERTIFICATE

At the completion of the initial briefing and the signing of the Contract of Participation Agreement, a CoC certificate will be issued. The eligible applicant should attempt to locate a unit within 120 days. If an extension is needed, one may be requested. The request will be evaluated based on reasonable accommodation.

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17.14.2 RENTAL ASSISTANCE PAYMENT CONTRACT

The owner must sign a Rental Assistance Payment (RAP) Contract for the CoC program, and must comply with all its provisions in addition to the requirements of the lease agreement. If the CoC program participant moves out of the unit prior to the end of the month, RAP will be provided to the owner for the entire month.

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17.14.3 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 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 utility allowance from the greatest of the three to obtain the tenant rent portion.
3. To arrive at the RAP, subtract the tenant rent portion from the contract rent.

If utilities are included in the rent, the tenant rent portion will be 30 percent of adjusted monthly income. The Mandatory Earned Income Disallowance (EID) is not applicable to the CoC program.

17.14.4 CERTIFICATE BEDROOM SIZE ISSUED (COC SUBSIDY STANDARDS)

FH will use the following guidelines to determine the size of unit that a participating household may rent. Participants may lease a smaller-sized unit, but may not lease a unit that is larger than the allowed bedroom size. These standards are based on the assumption that each bedroom will accommodate no more than two people.

- Single adults may lease a one-bedroom unit.
- Two adults who are a couple may lease a one-bedroom unit.
- Two adults who are not part of a couple (e.g. an adult with a live-in aide), or a single adult with one child, may lease a two-bedroom unit.
- Children of the same gender or children under the age of three regardless of gender will be expected to share a bedroom.
- To prevent overcrowding of units, or under-utilization of units, the following guidelines shall determine the minimum and maximum number of occupants for each unit size:

Number of bedrooms	Minimum household size	Maximum household size
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8

17.15 RE-CERTIFICATIONS/INTERIMS

The CoC program requires FH to process annual re-certifications. In cases where a family experiences a change in household composition and/or income between annual re-certifications, the FH will process an interim re-certification. The family is required to report all changes in household composition and/or income to the FH within 30 calendar days of the occurrence. The following will be required at the Interim and annual re-certification:

1. Application for Recertification
2. Applicant/Tenant Certification
3. Authorization for the Release of Information/Privacy Act Notice (*HUD Form 9886*)
4. Statement of Family Responsibilities
5. Grounds for Denial or Termination by the FH
6. County of Fresno Authorization Form.

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17.15.1 DOCUMENTS REQUIRED FROM PARTICIPANT

FH will send the participant a notice of the required annual renewal recertification along with forms to be completed. The participant must mail the following documents back to FH within 10 days:

- Current income verifications for all household members
- Completed Household Composition Table
- Completed Contract of Participation
- Authorization for the Release of Information/Privacy Act Notice
- Verifications for any deductions claimed: medical, child care, or student
- Signed Service Provider Agreement

If the participants do not respond within 10 days, the FH will send another letter requiring response within 10 days. If the participant does not respond within 10 days, the FH may initiate probationary action.

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17.15.2 HOUSING QUALITY STANDARDS

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required and FH will conduct the HQS inspection both at initial occupancy and annually during the term of the grant. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and RAP Contract.

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17.15.3 RENT REASONABLENESS

It is FH's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. FH 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. FH will determine rent reasonableness at initial lease-up, and before any increase in rent to owner.

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17.16 LIMITATIONS ON COC ASSISTANCE

17.16.1 SECTION 8 HOMEOWNERSHIP PROGRAM

The Section 8 homeownership program outlined in the Administrative Plan does not apply to the CoC program client.

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17.16.2 FAMILY SELF-SUFFICIENCY (FSS)

The CoC client is not eligible for the FSS program.

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17.16.3 PORTABILITY

CoC clients have no portability rights. CoC clients must continue to live within FH's jurisdiction for as long as they continue to participate in this program.

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17.16.4 RETENTION OF ASSISTANCE AFTER DEATH, INCARCERATION, OR INSTITUTIONALIZATION FOR MORE THAN 90 DAYS OF QUALIFYING MEMBER

[24 CFR 578.75(1)(i)]

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Members of any household who were living in an assisted unit at the time of the qualifying members 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.

17.17 TRANSFERS BY FH

FH may elect to transfer participants from one CoC TRA to another CoC TRA grant, if FH 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. FH shall document the date of the transfer and the reason for the transfer in the participant's file.

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17.18 TERMINATIONS RELATED TO THE COC PROGRAM

17.18.1 WHEN COC FAMILY VIOLATES PARTICIPATION AGREEMENT

The participant shall:

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- Supply such certification, release of information, and documentation as the FH or HUD determine to be necessary, including submissions required for an annual or interim re-certification of Family income and composition.
- Allow FH staff to inspect the dwelling unit at renewal and as deemed necessary with reasonable notice.
- Use the dwelling unit solely for residence by the participant's family, and as the family's principal place of residence; and not assign the Lease or transfer the unit.
- Keep the unit clean inside and out.
- Pay the participant's portion of rent on or before the day of the month established in the lease.

The participant shall not:

- Move from the unit within the initial 12-month lease term

- Own or have any interest in the dwelling unit. If the Owner is a cooperative, the participant may be a member.
- Commit any fraud in connection with the CoC Program.
- Receive assistance under the CoC Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any Federal Housing assistance program.

The participant must:

- Immediately submit verification for all changes in income or family status within 30 days to the CoC program.
- Not allow any additional family members to move into the CoC subsidized unit without prior approval from the case manager and FH staff.
- Be responsible for any damage to the unit during the participant's residency.
- Notify FH in writing no less than 30 days before moving from an CoC subsidized unit.
- Not use the CoC subsidized unit for any illegal drug related activities. The participant and any members of the participant's family or guests will not engage in drug-related criminal activity or any criminal activity. Drug -related activities include the felonious manufacture, sale, or distribution or the possession with intent to manufacture, sell or distribute a controlled substance.

17.18.2 REQUESTS FROM OUTSIDE AGENCY TO TERMINATE HOUSING ASSISTANCE UNDER COC

Coordinated Entry, Community Based Organizations and/or other government units or departments currently contracted by the FH to provide supportive services, may request termination of housing assistance for a program participant who is in violation of program requirements, and/or conditions of occupancy. FH will diligently work with the community partner and the participant to resolve the issue such that the participant remains in housing.

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17.19 NOTICE OF TERMINATION OF ASSISTANCE

In any case where FH decides to terminate assistance to the family, FH must give the family written notice which states:

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1. The reason(s) for the proposed termination,
2. The effective date of the proposed termination,
3. The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance (The hearing officer will be a neutral party and not a representative of the CoC program).
4. The date by which a request for an informal hearing must be received by FH.
5. The FH will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

17.19.1 PROCESS OF TERMINATION

A CoC participant can be terminated for the following reasons:

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1. Violation of CoC Contract of Participation;
2. Non-Compliance with lease agreement;
3. Non-Compliance with HQS;
4. Non-Compliance with Re-examinations;
6. Violation of CoC program family responsibilities.

The termination process will be as follows:

- If the participant has a community partner service provider, FH staff will contact that service provider and collectively work with CoC program participant to resolve issues related to termination. Every effort will be made to resolve the issue and prevent termination of CoC rental assistance.
- The landlord will be contacted with any issues related to the unit and every effort will be made to resolve issues that may be related to lease violation.
- In the event that CoC program participant fails to comply, a letter for non-compliance will be sent to the CoC program participant. Allowing them 10-business day to comply as an opportunity to remedy the problem.
- Failure of CoC participant to respond to non-compliance letter, a letter of Intent for Termination will be sent to the CoC participant allowing them an opportunity for an informal hearing.
- The informal hearing will be conducted by a neutral party and not a representative of the CoC program. The session will include counseling to assist the participant in resolving non-compliance issues.
- Upon reaching an agreement of compliance, the termination of assistance will be overturned.
- However, failure to comply with hearing officer may lead to final termination.

17.20 PROGRAM SPECIFIC POLICIES AND PROCEDURES

17.20.1 SHELTER PLUS CARE (SPC)

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:

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- Mental health issues;
- Physical/Intellectual/Developmental Disability;
- Behavioral health issues or,
- AIDS and related diseases.

The program has limitations on bedroom sizes and SPC TRA assistance is issued accordingly.

17.20.2 MEMORANDUM OF UNDERSTANDING (MOU)

The Memorandum of Understanding (MOU) confirms the agreement between the service provider and FH, for rental assistance and supportive services for the SPC program.

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As a condition of receiving housing assistance, the participant and service provider:

- Have an identified case manager from a pre-selected service provider agency;
- Sign a Service Provider Agreement with the participating Service Provider;
- Work with the case manager to develop an individualized case plan designed to assist the participant to gain housing stability, increase skills and/or income, and increase self-determination.

17.20.3 SERVICE MATCH DOCUMENTATION

Under HUD regulations for any CoC program (24 CFR 578.73), the FH is required to have a 25% match for rental assistance with in-kind supportive services. Service match is documented using the following forms of documentation:

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Monthly service match log. On a monthly basis, pre-selected service providers are required to submit a tracking log documenting the services provided to each client and the value of those services, along with a summary report totaling all services provided on a year-to-date basis.

17.20.4 REFERRALS

Eligible individuals and/or their families are referred to the SPC program by pre-selected service providers through CES. The service providers in compliance with the MOU agree to:

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- Provide referrals for SPC rental assistance
- Provide documentation for certification of homelessness on agency letterhead signed by case manager or CES staff
- Provide certification of disability from a qualified health care professional trained to make such a determination.
- Act as the primary service provider for the named participant.
- Assign a case manager to work with the participant and to be the main contact person for the FH staff in regards to the supportive services.
- Assist the participant to develop an Individual Service Plan (ISP) designed to help maintain housing stability, and meet the participant's self-directed life goals.
- Assist the participant to access services he/she has identified in the case plan.
- Provide a copy of the initial ISP, and a copy of the updated ISP annually thereafter.

- Provide the participant and FH with a 30-days' notice of intent to terminate this agreement.
- Provide a monthly report for supportive services and the cash match.

The participant signs an MOU with the FH and agrees to comply with the service provider on the following;

- Maintain regular contact with the identified Case Manager.
- Meet with the Case Manager at least once per month (or less if mutually agreed with case manager).
- Work with the case manager to achieve the goals in the ISP.
- Communicate promptly with FH regarding any concerns about the services the participant is receiving.

Provide the service provider and FH with 30-days' notice of intent to terminate this agreement.

17.20.5 TRANSFERS BY FH

FH may elect to transfer participants from one SPC TRA to another SPC TRA, if FH 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.

FH shall document the date of the transfer and the reason for the transfer in the participant's file.

17.20.6 PERMANENT SUPPORTIVE HOUSING (PSH) – TENANT BASED RENTAL ASSISTANCE

FH provides PSH rental assistance under the Tenant-Based Rental Voucher (TBRA) rules of 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). It is a grant program which is designed to provide supportive services for homeless individuals with disabilities. Eligible individuals and/or their families are referred to the PSH program through CES.

17.20.7 RAPID REHOUSING (RRH)

The FH provides RRH rental assistance under the Tenant-Based Rental Voucher (TRA) rules of 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). It is a grant program which is designed to link rental assistance to supportive services for homeless families and/or individuals with disabilities. The program prioritizes those individuals/families identified as moderately vulnerable through CES. While HUD regulates families are mandated

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to meet with case management at least once per month, it is the position of FH that such meeting can be for a few minutes only; the participant is not mandated to participate in the Individual Service Plan.

The program has limitations on bedroom sizes and RRH TRA assistance is issued accordingly. RRH also has annual income limits documented by government assistance program printouts and/or pay stubs that must not exceed 30% of AML. Eligible individuals and/or their families are referred to the RRH program through CES.

CHAPTER 18: OWNER OR FAMILY DEBTS TO FH

18.1 INTRODUCTION

This chapter describes FH'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 FH'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 FH'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.

FH will sometimes take other or additional actions than debt recovery when program fraud or abuse occurs. For more information, see Chapter 24 on Program Integrity.

18.2 TYPES OF DEBT OWED TO FH

Families are required to repay FH 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 to the first of the following month of which the change occurred.

Owners are required to repay FH 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 FH due to program fraud are subject to the policies described in Chapter 24.

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, FH will refer the case for criminal prosecution.

Any amount owed to FH by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA FH will offer to enter into a repayment agreement in accordance with the policies below.

18.3 COLLECTION METHODS

When families or owners owe money to FH, FH will make every effort to collect it. FH 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 FH for claims paid to an owner, FH 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, FH will require that the family pay a minimum 10% initial lump sum with the remaining balance to be paid in equal payments over a period of time not to exceed 24 months. The maximum amount for which FH 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 FH and a person who owes a debt to FH. 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 FH upon default of the agreement.

FH 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 two (2) years of the agreement date.

The maximum amount for which FH will enter into a payment agreement with a family is \$10,000.

Payment plans beyond the 2-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 FH and the head of household or spouse or co-head.

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 FH

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.

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18.4.3 ADDITIONAL MONIES OWED

If the family already has a Repayment Agreement in place and incurs an additional debt to FH, FH may enter into an additional repayment agreement with the family or FH may initiate the termination process. Extenuating circumstances may be referred to a supervisor.

18.4.4 LATE PAYMENTS

If a payment is not received by the close of business, 10 business days after the due date. It is considered late and FH 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 OWING

If the family requests a move to another unit and is in arrears on a repayment agreement for money owed to FH, 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

18.4.6 REFUSAL TO PAY, ENTER INTO AGREEMENT, OR BREACH OF CONTRACT

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, FH will terminate assistance in accordance with 24 CFR 982.551 and 24 CFR 982.553 and pursue other modes of collection.

18.5 OWNER DEBTS TO FH

[24 CFR 982.453(b)]

If FH determines that the owner has retained Housing Assistance Payments for which he is not entitled, FH 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, FH 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 FH 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 HCV housing assistance programs. According to the criteria explained in part 792, FH will be eligible to retain a portion of program fraud recoveries.

To permit HUD to audit amounts retained under this part, FH 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.

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CHAPTER 19: INFORMAL REVIEWS AND HEARINGS

19.1 OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the FH that may adversely affect them. FH decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of FH decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

Any request for a reasonable accommodation, interpreter, auxiliary aids or services such as audio or sign language, etc. must be requested as soon as possible but no later than 3 business days prior to the review or hearing.

19.2 INFORMAL REVIEWS

PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards

- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the NSPIRE standards
- A PHA determination that the unit does not meet space standards

PHA Policy

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Notice to the Applicant [24 CFR 982.554(a)]

Scheduling an Informal Review

FH Policy

A request for an informal review must be made in writing and delivered to the PHA 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 PHA's denial of assistance.

The PHA must schedule and send written notice of the informal review within 10 business days of the family's request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the PHA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

If the family does not appear within 20 minutes of the time stated in the letter of notification, the PHA will not reschedule the hearing unless needed as a reasonable accommodation for a person with a disability

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

Conducting Remote Informal Reviews [Notice PIH 2020-32]

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

FH Policy

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

The PHA has the sole discretion to require that informal reviews be conducted remotely in case of local, state or national physical distancing orders, and in cases of inclement weather or natural disaster.

Informal reviews will be conducted remotely/virtually unless otherwise indicated or requested by the applicant.

FH will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least three business days prior to scheduling the remote review, FH will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the review and request the family notify FH of any known barriers. FH will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal review is to be conducted remotely, FH will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the Hearing Officer the same day.

Documents will be shared electronically whenever possible.

FH will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

FH will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Review Decision [24 CFR 982.554(b)]

FH must notify the applicant of FH's final decision, including a brief statement of the reasons for the final decision.

FH Policy

In rendering a decision, ~~the PHA~~ FH will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The PHA will evaluate whether the facts presented or preponderance of evidence prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and their representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

19.3 INFORMAL HEARINGS FOR PARTICIPANTS

[24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The

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purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the NSPIRE standards
- A PHA determination that the unit is not in accordance with space standards because of family size

- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

FH Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if the PHA denies a request for a reasonable accommodation.

This section lists the circumstances under which a PHA is required to offer an informal hearing, and the circumstances under which the PHA is not required to offer one:

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if the PHA denies a request for a reasonable accommodation:

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

PHA Policy

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state or national physical distancing orders, and in cases of inclement weather or natural disaster.

Informal hearings will be conducted remotely/virtually unless otherwise indicated or requested by the applicant.

FH will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least three business days prior to scheduling the remote hearing, FH will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify FH of any known barriers. FH will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, FH will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the Hearing Officer the same day.

Documents will be shared electronically whenever possible.

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FH will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

FH will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Conducting Informal Hearings Remotely

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least three business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

PHA Policy

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the PHA.
- A brief statement of the reasons for the decision, including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the PHA's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the PHA's hearing procedures.

If the family does not appear within 20 minutes of the time stated in the letter of notification, the PHA will not reschedule the hearing unless needed as a reasonable accommodation for a person with a disability

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

PHA Policy

A request for an informal hearing must be made in writing (letter or email) and delivered to the PHA 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 PHA's decision or notice to terminate assistance.

The PHA must schedule and send the notification of the informal hearing to the family within 10 business days of the family's request.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote informal hearing;

That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

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 PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights.

The PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the informal hearing. The PHA will e-mail copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The family may request to have the packet mailed at no charge. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24-48 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the PHA, other than

the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing

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FH Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative(s) and any witnesses for the PHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability

Conduct at Hearings

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR 982.555(e)(5)]

FH and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

FH Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: The testimony of witnesses

Documentary evidence: A writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing

officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either the PHA (or the family, if required in a remote hearing) fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Procedures for Rehearing or Further Hearing

FH Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer's report is mailed to the PHA and the participant, the PHA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10-business-day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, as to why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the PHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

FH Policy

In rendering a decision, the hearing officer will consider the following matters:

PHA Notice to the Family: The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

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Discovery: The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with FH Policy.

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PHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

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Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and/or PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

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The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of

assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Written Decision

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the PHA representative; and
- Name of family representative (if any)

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Issuance of Decision [24 CFR 982.555(e)(6)]

A copy of the hearing must be furnished promptly to the family.

FH Policy

The hearing officer will e-mail a "Notice of Hearing Decision" to the PHA. The PHA will email (unless requested to receive by mail) to the participant on the same day. A copy of the "Notice of Hearing Decision" will be maintained in the PHA's file according record retention policy.

Effect of Final Decision [24 CFR 982.555(f)]

The Chief of Housing Choice Programs and Initiatives has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the PHA will e-mail a "Notice of Final Decision" to the PHA and the participant on the same day. The "Notice of Final Decision" will be e-mailed (unless requested to receive by mail). A copy of this notice will be maintained in the PHA's file according to record retention policy.

19.4 HEARING AND APPEAL PROVISIONS FOR NONCITIZENS

[24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. 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 PHA 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 PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures

USCIS Appeal Process [24 CFR 5.514(e)]

When FH receives notification that the USCIS secondary verification failed to confirm eligible immigration status, FH 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 FH with a copy of the written request for appeal and the proof of mailing.

FH Policy

FH will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

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The family must provide FH 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 FH, of its decision. When the USCIS notifies FH of the decision, FH must notify the family of its right to request an informal hearing.

FH Policy

FH 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.

When the PHA receives notification that the United States Citizenship and Immigration Services (USCIS) secondary verification failed to confirm eligible immigration status of an applicant or participant, the PHA must notify the family of the results, and the family has 30 days from the date of the notification to make an appeal to the USCIS of the verification results.

The PHA 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 PHA 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 PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that FH provide a hearing. The request for a hearing must be made either within 30 days of receipt of FH notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

The informal hearing procedures for applicants are discussed in this section.

Informal Hearing Officer

FH 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

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who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

The PHA 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

This section describes a family's right to examine evidence, present evidence, and the right to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

The family will be allowed to copy any documents related to the hearing at no cost. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of FH 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.

FH Policy

The family will be allowed to copy any documents related to the hearing at no charge. The family must request discovery of FH documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by FH, and to confront and cross-examine all witnesses on whose testimony or information FH 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 request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge

Recording of the Hearing

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The family is entitled to have the hearing recorded by audiotape. FH may, but is not required to provide a transcript of the hearing.

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FH Policy

The PHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that FH provide a hearing. The request for a hearing must be made either within 30 days of receipt of FH notice of termination, or within 30 days of receipt of the USCIS appeal decision.

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For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status.

~~The informal hearing procedures for participant families whose assistance is being terminated based on immigration status, is the same as for other participant families.~~

Retention of Documents [24 CFR 5.514(h)]

FH must retain for a minimum of 5 years the following documents that may have been submitted to FH by the family, or provided to FH as part of the USCIS appeal or FH informal hearing process:

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- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

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~~The PHA must retain for a minimum of 5 years specific documents that were submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process.~~

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CHAPTER 20: LIMITED ENGLISH PROFICIENCY (LEP)

20.1 INTRODUCTION

In accordance with Executive Order 13166, FH will provide meaningful access to its programs and activities by persons with Limited English Proficiency (LEP). This chapter describes how FH 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 1.154 of this Plan, "When Translation Services Are Needed" and Appendix B for the Language Assistance Plan.

20.2 MEANINGFUL ACCESS & THE FOUR-FACTOR ANALYSIS

Meaningful access is free language assistance in accordance with federal guidelines. FH 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 FH.
- The frequency with which LEP persons using a particular language come into contact with FH.
- The nature and importance of FH program, activity or service to the person's life.
- FH'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 FH 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. FH will determine when interpretation and/or translation services are needed and are reasonable based upon the four-factor analysis.
- FH 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, FH 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.

FH 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

FH 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 FH’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. FH 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 FH housing developments) or 1,000 persons, whichever is less.

In consideration of the above, FH provides translations of the following assisted public housing “vital documents”:

- Application
- Outreach activities
- Voucher
- Family Obligations
- Lease Addendum
- Termination letters

As FH continues to translate further assisted public housing program “vital documents”, this list will be updated on an annual basis.

As opportunities arise, FH 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, FH will replace its translated versions with the official HUD versions. FH encourages HUD to provide this service to PHAs and other federally funded agencies whose limited resources hinder their LEP efforts.

FH 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

FH 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, FH 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. FH 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 FH. 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 FH 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. FH may require the family to sign a waiver of their right to FH-supplied interpreter.

If an LEP client wants to use his/her own informal interpreter, FH reserves the right to also have a formal interpreter present.

Outside Resources

Outside resources may include community volunteers, FH residents or Housing Choice Voucher/participants.

Outside resources may be used for interpreting services at public or informal meetings or events if a timely request has been made.

FH will establish and maintain relationships with organizations that assist specific cultural and ethnic groups living in the City of Fresno. To help their clients obtain or keep housing assistance through FH, these organizations may provide qualified interpreters for LEP persons.

20.7 MONITORING

FH will review and revise the LAP Policy as needed as part of the Agency Plan process. The review will include:

- Reports from FH'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 FH staff.
- Available at FH Administrative Office.
- Posted on FH'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: SPECIAL HOUSING TYPES

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[24 CFR 982.602 through 982.605; Form HUD-52641; New HCV GB, *Special Housing Types*, p. 4]

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601]. A single unit cannot be designated as more than one type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing.

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing (RA only)

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

21.1 PART I: SINGLE ROOM OCCUPANCY

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances. When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing."

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21.1.1 PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

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The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

21.1.2 HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

- Access: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- Fire Safety: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605]. Sanitary Facilities: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to males, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- Space and Security: An SRO unit must contain at least 110 square feet of floor space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable. Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

21.2 PART II: CONGREGATE HOUSING

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

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If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD- 52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing."

21.2.1 PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

21.2.2 HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below. Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary. The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

21.3 PART III: GROUP HOMES

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

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A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home."

21.3.1 PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero- or one-bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

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The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorated share of the payment standard for the group home size. The prorated share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorated share of the family unit size to the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorated portion of the reasonable rent for the group home. In determining reasonable rent, the PHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

21.3.2 HOUSING QUALITY STANDARDS

The entire unit must comply with HQS requirements described in Chapter 8, except for the requirements stated below.

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- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations, and other hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Instability
 - Flooding, poor drainage
 - Septic tank back-ups, sewage hazards
 - Mud slides
 - Abnormal air pollution
 - Smoke or dust
 - Excessive noise
 - Vibrations or vehicular traffic
 - Excessive accumulations of trash
 - Vermin or rodent infestation, and
 - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

21.4 PART IV: SHARED HOUSING

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experience some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

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Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

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If approved by FH, a live-in aide may reside with the family to care for a person with disabilities. Fresno Housing must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

FH Policy

FH will provide information to families regarding the shared housing option at briefing but will not provide any listings or information of housing matching services in the community.

PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

FH Policy

FH may work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if the PHA encounters barriers to shared housing that conflict with fair housing laws. Families will be advised they can conduct their own internet

search. Families will be cautioned to not enter into any rental agreement or pay any deposit or rental payment until the tenancy is approved by Fresno Housing.

Although FH will not seek out solutions within the jurisdiction, the PHA will inform HUD if the PHA encounters barriers to shared housing that conflict with fair housing laws.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing."

21.4.1 PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the prorated share of the payment standard for the shared housing unit size.

The prorated share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

Example: Family holds a two-bedroom voucher.

Shared housing unit size: bedrooms available to assisted family = 2

Total bedrooms in the unit: 3

2 Bedrooms for assisted family

÷ 3 Bedrooms in the unit

.667 pro-rata share

2 BR payment standard: \$1200

3 BR payment standard: \$1695 $\$1695 \times .667$ (pro-rated share) = \$1131

\$1131 is lower than the \$1200 payment standard for the 2 BR family
unit size \$1131 is the payment standard used to calculate the HAP

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

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The utility allowance for an assisted family living in shared housing is the prorated share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200

The utility allowance for a 2-bedroom unit equals \$100

The prorated share of the utility allowance is \$150 (3/4 of \$200)

The PHA will use the 2-bedroom utility allowance of \$100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA may consider whether sanitary and food preparation areas are private or shared.

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21.4.2 HOUSING QUALITY STANDARDS

FH may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

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HQS requirements described in Chapter 10 apply to shared housing except for the requirements stated below.

- **Facilities Available for the Family:** Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- **Space and Security:** The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (voucher size). A zero-bedroom or one-bedroom unit may not be used for shared housing.

21.5 PART V: COOPERATIVE HOUSING (RA ONLY)

FH will permit the following an eligible housing type 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.

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This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased

membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to HCV limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”

21.5.1 PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

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The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

21.5.2 HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. The PHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS. No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by the PHA and the PHA verifies correction (see Chapter 8). In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

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21.6 PART VI: MANUFACTURED HOMES (INCLUDING MANUFACTURED HOME SPACE RENTAL)

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV assisted families may occupy manufactured homes in three different ways.

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1. A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 21.6.3 below.
2. A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.
3. HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

21.6.1. SPECIAL REQUIREMENTS FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

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In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

21.6.2 PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR NOTICE 1/18/17]

Payment Standards

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The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This

allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and at least annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed

rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.

21.6.3 HOUSING QUALITY STANDARDS

Under either type of occupancy described above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

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Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

21.7 PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

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The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

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FH Policy

The PHA has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price, and requires that at least one percent of the purchase price come from the family's personal resources.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

FH Policy

The PHA will offer the monthly homeownership assistance payments to qualified families.

The PHA may choose not to offer homeownership assistance. However, the PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the

PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

21.7.1 FAMILY ELIGIBILITY

If the PHA offers the homeownership option, participation by the family is optional.

However, the family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

FH Policy

The PHA will not establish a higher minimum income standard for disabled and/or non-disabled families.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

FH Policy

Families will be considered “continuously employed” if the break in employment does not exceed four months.

The PHA will count self-employment in a business when determining whether the family meets the employment requirement.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

FH Policy

The PHA will impose additional eligibility requirements. To be eligible to participate in the homeownership option, families must meet the following criteria:

The family has had no serious family-caused violations of HUD’s Housing Quality standards within the past year.

The family is not within the initial one-year period of a HAP Contract.

The family owes no money to the PHA.

The family has not committed any serious or repeated violations of a PHA-assisted lease within the past year.

21.7.2 SELECTION OF FAMILIES

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

FH Policy

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The PHA will administer up to 10 new homeownership units per year. The PHA may exceed the number of units planned per year if it is necessary as a reasonable accommodation for a person with a disability. If this occurs, the PHA may reduce the number of homeownership units offered in subsequent years.

Families who have been participating in an economic self-sufficiency program for at least six months, or have graduated from such a program, will be given preference over other families. Elderly and disabled families will automatically be given this preference.

Within preference and non-preference categories, families will be selected according to the date and time their application for participation in the homeownership option is submitted to the PHA.

All families must meet eligibility requirements as defined in VII.B. of this plan.

21.7.3 ELIGIBLE UNITS

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

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- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
 - A public housing or Indian housing unit;
 - A unit receiving Section 8 project-based assistance;
 - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
 - A college or other school dormitory;
- On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- Families may enter into contracts of sale for units not yet under construction. However, the PHA will not commence homeownership assistance for the family for that unit until:

1. Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and
 2. Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.
- For PHA-owned units all of the following conditions must be satisfied:
 1. The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
 2. The unit is not ineligible housing;
 3. The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

21.7.4 ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

FH Policy

The family will be allowed 120 days to identify a unit and submit a sales contract to the PHA for review. The family will be allowed an additional 120 days to close on the home. PHAs may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case, but in no case will an extension exceed a total of 125 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 365 days.

During these periods, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

All requests for extensions must be submitted in writing to the PHA prior to the expiration of the period for which the extension is being requested. The PHA will approve or disapprove the extension request within 10 business days. The family will be notified of the PHA's decision in writing.

The family will be required to report their progress on locating and purchasing a home to the PHA every 30 days until the home is purchased.

If the family cannot complete the purchase of a unit within the maximum required time frame, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit.

21.7.5 HOMEOWNERSHIP COUNSELING

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

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The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

FH Policy

If required by the PHA, families must attend and complete post-purchase ongoing homeownership counseling.

21.7.6 HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER

Home Inspections

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

FH Policy

When the family locates a home, they wish to purchase and submits a copy of their purchase offer/contract, the PHA will conduct a housing quality standards (HQS) inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

FH Policy

The family must hire an independent professional inspector, whose report must be submitted to the PHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector cannot be a PHA employee or contractor.

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The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

FH Policy

The PHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

If the PHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

While the family is receiving homeownership assistance, the PHA will conduct an HQS inspection every other year.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.
- A contract for the sale of a unit not yet under construction must meet all above requirements, and requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
 - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and
 - The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

21.7.7 FINANCING

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

FH Policy

As a check against predatory lending, the PHA will review the financing of each purchase transaction, including estimated closing costs. The PHA will review the loans for features, such as balloon payments, adjustable-rate mortgages, and unusually high interest rates, all of which are prohibited. The PHA also will not approve "seller financing" or "owner-held" mortgages. Beyond these basic criteria, the PHA will rely on the lenders to determine that the loan will be affordable to program participants.

The mortgage the family applies for must require a minimum down payment of at least 3% of the sales price with 1% of the down payment coming from the purchaser's personal funds. The PHA will not require that the family have any more than the minimum of 1% of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

The PHA will approve a family's request to utilize its Family Self-Sufficiency escrow account after final disbursement for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

21.7.8 CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

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Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- The family must provide the PHA with information on any satisfaction or payment of the mortgage debt.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

FH Policy

Any HQS failed items noted on any inspection after the initial inspection will have to be corrected by the family within 30 calendar days as a condition of continued assistance.

21.7.9 MAXIMUM TERM OF HOMEOWNER ASSISTANCE

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

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- Has an ownership interest in the unit during the time that homeownership payments are made? or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made?

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

21.7.10 HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) must include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;

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- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

The PHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

FH Policy

The PHA will use the following amounts for homeownership expenses:

Monthly homeownership payment: This includes principal and interest on initial mortgage debt, taxes and insurance, public assessments, and any mortgage insurance premium, if applicable.

Utility allowance: The PHA's utility allowance for the unit, based on the current HCV utility allowance schedule.

Monthly maintenance/major repair/replacement allowance: A single monthly maintenance/repair/replacement allowance will be provided at \$120 per month.

Monthly co-op/condominium assessments: If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.

Monthly principal and interest on debt for improvements: Principal and interest for major home repair, replacements, or improvements, if applicable.

Land lease payments: Land lease payments where a family does not own fee title to the real property on which the home is located.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

FH Policy

The PHA's housing assistance payment will be paid directly to the family. It will be the family's responsibility to make the entire payment to the lender. The PHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

21.7.11 PORTABILITY

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

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21.7.12 MOVING WITH CONTINUED ASSISTANCE

A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

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The PHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking 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), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance. In this case, the PHA must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves based on insufficient funding.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and
- The family has moved, or will move, from the home within the period established or approved by HUD.

FH Policy

For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with PHA policies in Chapter 10.

The PHA will not require additional counseling of any families who move with continued assistance.

21.7.13 DENIAL OR TERMINATION OF ASSISTANCE

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

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The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

FH Policy

In order for the PHA to consider granting relief from the requirement to automatically terminate homeownership assistance 180 days following the PHA's last housing assistance payment on behalf of the family, the family must submit a written request to the PHA at least 30 days prior to the date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. The PHA will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will the PHA postpone termination beyond an additional 90 days.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

FH Policy

The PHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, the PHA will consider alternatives as described in Termination of Assistance and other factors described in

Evidence. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth.

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 contribution contract (ACC) with HUD are allowed to use part of its voucher allocation 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 the City of Fresno (FH) has stated in its Annual Plan its reasons for offering a PBV program in the City of Fresno, and these are restated below:

22.1.1 PROGRAM'S CURRENT GOALS

FH has the following current goals for the Project-Based Voucher program:

FH will operate a project-based voucher program using up to 20 percent of its allocated units under the ACC contract and may project-base an additional 10 percent of its units above the 20 percent program limit, if the units are set aside for provided the additional units meet the conditions in §983.6(d)(1) or (2):

The units are part of a HAP contract executed on or after April 18, 2017, or are added on or after that date to any current HAP contract, including a contract entered into prior to April 18, 2017, and the unit falls into at least one of the following categories:

- The units are for homeless individuals and families that meet the definition of homeless under Section 103 of the McKinney-Vento Homeless Assistance Act;
- The units are families with Veterans;
- The units provide supportive housing for persons with disabilities or elderly persons,
- The units are located in areas where vouchers are difficult to use as defined in §983.3, (FR Notice 1/18/17).
- The units replace, on a different site, the units listed in §983.59(b)(1) and (2) for which the PHA had authority under §983.59 to commit PBV assistance on the original site without the units counting toward the program cap or project cap; and the PHA has not committed and will not commit PBV assistance to the original site pursuant to the normally applicable exclusions of those units under §983.59.

The units are part of a HAP contract executed on or after December 27, 2020, or are added on or after that date to any current HAP contract, including a contract entered into prior to December 27, 2020, and meet the following requirements:

- The units are exclusively made available to eligible youth as described in Section 8(x)(2)(B) of the U.S. Housing Act; and

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o If the units exclusively made available to eligible youth use Family Unification Program (FUP) assistance that is normally available for eligible families and youth described in Section 8(x)(2) of the U.S. Housing Act, the PHA determines and documents that the limitation of the units to youth is consistent with the local housing needs of both eligible FUP populations (families and youth) and amends its Administrative Plan to specify that FUP PBV assistance is solely for eligible youth.

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- FH 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 Redevelopment Agencies (RDA) areas described in this plan.
- FH 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 FH strives to provide housing opportunities for individuals and families in need throughout the City of Fresno, especially those who are most vulnerable, project-based vouchers (PBV) are an essential resource. To date, FH 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 FHs 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, FH enters into a HAP contract with an owner for units in existing housing or in newly constructed or rehabilitated housing.

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- In the case of newly constructed or rehabilitated housing, the housing is developed under an Agreement between the owner and FH. In the agreement FH agrees to execute a HAP contract after the owner completes the construction or rehabilitation of the units.
- During the term of the HAP contract, FH 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, FH 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 the City of Fresno.

Agreement to Enter into HAP Contract (Agreement). The Agreement is a written contract between FH 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, FH 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 FH 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 the FH jurisdiction.

FH-Owned Unit. For purposes of the PBV program, a FH-owned unit is one which FH has more than 50 percent controlling interest. FH-owned means that FH 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,

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or member of a limited liability corporation, or an entity that holds any such direct or indirect interest.

Project. A project can be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. "Contiguous" in this definition includes "adjacent to," as well as touching along a boundary or a point. A PHA may, in its Administrative Plan, establish the circumstances under which it will define a project as only one of the following: a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

Proposal Selection Date. The date FH 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 FH 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. FH may not use voucher program funds to cover relocation costs, except that FH 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 FH to ensure the owner complies with these requirements.

22.6 EQUAL OPPORTUNITY REQUIREMENTS

[24 CFR 983.8]

FH 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, FH 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]

FH 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 FH 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.

FH's choice of housing type will be reflected in its solicitation for proposals.

22.8 PROHIBITION OF ASSISTANCE FOR ~~CERTAIN UNITS: INELIGIBLE HOUSING TYPES~~INELIGIBLE UNITS

[24 CFR 983.5352]

FH 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 (~~however, PBV~~except that assistance may be provided in assisted living facility facility that provides home health care services such as nursing and therapy for residents of the housingies);
- units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
- manufactured homes are ineligible only if the manufactured home is not permanently affixed to a permanent foundation or the owner does not own fee title to the real property (land) on which the manufactured home is located; (ie: manufactured are eligible when the manufactured home is permanently affixed to a permanent foundation or the owner owns fee title to the real property (land) on which the manufactured home is located).;
- cooperative housing; and
- transitional housing.

In addition, FH will not attach or pay PBV assistance for a unit occupied by an owner and FH 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]

FH 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 HCV or 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 rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the PHA may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
- 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 persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);
- 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 FH in accordance with HUD requirements.

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22.10 PROJECT-BASED VOUCHERS AND FH-OWNED UNITS INDEPENDENT ENTITY FUNCTIONS

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[24 CFR 983.57], 983.102(f), 983.301((g) and 983.303(f)]

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HUD allows FH-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)].~~
- The independent entity must determine rent to owner, including rent reasonableness and calculating any rent adjustments by an OCAF (where applicable), in accordance with §983.301 through 983.305. 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 the City of Fresno or another HUD-approved public or private independent entity [983.59(c)].~~
- The independent entity must perform unit inspections in accordance with §983.103(g)

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- When the owner carries out development activity under §983.207(d) or 983.212, the independent entity must review the evidence and work completion certification submitted by the owner in accordance with §983.156.
- The independent entity must determine whether to approve substantial improvement to units under a HAP contract in accordance with §983.212.
- Payment ~~of to~~ the independent entity. The PHA may compensate the independent entity and the appraiser will come from FH ongoing administrative fees for the services performed by the independent entity. The PHA may not use other program receipts to compensate the independent entity for such services.[983.59(d)]; but may be reimbursed by the developer or owner requesting project-based vouchers.
- The independent entity, and FH and the appraiser may not charge the family any fee for the appraisal or charge for 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 FH [983.103(f)(2), 983.303(f)(2)].
- A FH-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

FH 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 FH in selecting owner proposals. Before selecting a PBV proposal, FH must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing (§983.52 and §983.53), complies with the cap on the number of PBV units per project (§983.54), and meets the site selection standards (§983.55) described in this Chapter. An owner may submit, and a PHA may select, a single proposal covering multiple projects where each project consists of a single-family building, provided all projects are the same housing type (existing, rehabilitated, or newly constructed).

22.11.1 OWNER PROPOSAL **AND PROJECT** SELECTION PROCEDURES

[24 CFR 983.51]

FH will select PBV proposals in accordance with the selection procedures in its administrative plan and each individual RFP. -FH may allow for entities that have site control to submit proposals provided the entity will be the owner prior to entering into the Agreement or HAP contract. It FH will select PBV proposals by either of the following ~~two~~ methods.

Method ~~One of~~ Competitive Basis

1. Request for Proposal. FH will solicit application submissions in response to an RFP under a competitive selection process. FH 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: 2. Prior Competitive Selection

FH may select ~~without issuing an RFP, the following~~ proposals:

- ~~• housing assisted under a Federal, State, or local government housing assistance, community development program, or supportive services program that requires competitive selection of proposals where 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 Exceptions to Competitive Selection [CFR 983.51 (c) Notice 1/18/2017]

Prior to selection under this section, FH must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan.

- 1) FH may attach Project Based Vouchers (PBV) to projects in which FH has ownership or controlling interest, without following a competitive process, when FH may select for PBV assistance a project consisting of PHA-owned units as defined at 24 CFR 982.4 without following a competitive process. engages in an initiative(s) to improve, develop,
 - a) The project units must continue to meet the definition of PHA-owned for the initial two years of the HAP contract unless there is a transfer of ownership approved by HUD.
 - b) FH must meet any conditions with respect to selection for PBV assistance of a project consisting of PHA-owned units without following a competitive process as may be established by HUD through publication in the Federal Register notice after providing opportunity for public comment.
- 2) FH may select for PBV assistance a project that underwent an eligibility event within five years of the project selection date, in which a family (or families) qualifies for enhanced voucher assistance under Section 8(t) of the Act and provides informed consent to relinquish its enhanced vouchers for PBV assistance, without following a competitive process.
 - a) convert under the HUD Rental Assistance Demonstration, preserve, and/or replace a public housing properties or site(s). Ownership Interest means that FH or its officers,

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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 \$40,000 per unit in hard costs. However, this minimum per unit cost would not be applicable in a situation where FH is replacing a public housing properties or site(s) with existing housing owned or controlled by FH.

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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 2025 are broken down as follows:

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City AMP 1 (158 units)
Sequoia Courts (60 Units)
Sequoia Courts Terrace (78 Units)

City AMP 2 (188 Units)
Sierra Plaza (70 Units)
Fairview Heights Terrace (64 Units)
Sierra Terrace (26 Units)
Desoto Gardens (28 Units)

City AMP 7
Parc Grove II (31 Units)

Schedule:
03/01/2025 & 07/01/2025 Tax Credit Applications
07/01/2025 & 10/01/2025 Tax Credit Award
12/01/2025 & 03/01/2026 Construction Starts
12/01/2026 & 03/01/2027 Construction Completions

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Avalon Commons Phase I

The Avalon Commons Phase I site consists of approximately 5.67 acres of vacant land at 7521 N. Chestnut Avenue in Fresno, CA. The concept envisions up to 60 units of housing designed for families, special needs and workforce residents. The development includes Project Based Vouchers.

Schedule:
07/2022 Tax Credit Application
04/2023 Construction Start
10/2024 Construction Completion

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Avalon Commons Phase II

The Avalon Commons Phase II site consists of approximately 2.39 acres of vacant land at the northwest corner of Chestnut and Alluvial Avenues in Fresno, CA. The concept envisions up to (45) units of housing designated for families, workforce, special needs and veteran residents. The development may include the transfer of RAD rental assistance from one or more existing low-income public housing properties.

Schedule:

07/2023~~4~~ Tax Credit Application

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04/2024~~5~~ Construction Start

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11/2025~~6~~ Construction Completion

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Downtown Redevelopment Project

FH envisions a downtown project located at the corner of Tuolumne and Fulton Street. The concept envisions 60-120 units of housing designated for families, students and workforce residents. The development may include the transfer of RAD rental assistance from one or more existing low-income public housing sites.

Schedule:

04/2025 State Funding Application

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08/202303/2026 Tax Credit Application

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05/202412/2026 Construction Start

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12/202503/2028 Construction Completion

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High Density Downtown Redevelopment Project

FH envisions a high-density downtown project located at the current FH Central Office site. The project could potentially be co-located with planned commercial construction or market rate housing. We propose substantial rehabilitation and/or new construction of this site.

Schedule:

04/2025 State Funding Application

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03/2024 03/2026 Tax Credit Application

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12/202412/2026 Construction Start

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03/2028 Construction Completion

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Monte Vista Terrace

FH envisions the redevelopment of the existing low-income public housing site at North 1st Street & East Tyler Avenue. The redevelopment may include higher density housing with open space and a community building. The concept includes 40-60 units of housing designed for families.

Schedule:

03/202403/2025 Tax Credit Application

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12/202412/2026 Construction Start

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03/202603/2028 Construction Completion

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North Fresno Development

FH is searching for sites to develop multi-family low-income rental housing in North Fresno. The concept includes 40 to 60 units of housing designed for families and workforce residents. The development may include the transfer of RAD rental assistance from one or more existing low-income public housing properties. We propose substantial rehabilitation and/or new construction of this site.

Schedule:

~~07/2024~~07/2025 Tax Credit Application

~~03/2025~~03/2026 Construction Start

~~06/2026~~06/2028 Construction Completion

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Northeast Fresno Development

FH is searching for sites to develop multi-family low-income rental housing in Northeast Fresno. The concept includes 60 to 80 units of housing designed for families and workforce residents. The development may include the transfer of RAD rental assistance from one or more existing low-income public housing properties.

Schedule:

~~07/2024~~07/2025 Tax Credit Application

~~03/2025~~03/2026 Construction Start

~~06/2026~~06/2028 Construction Completion

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Southeast Fresno Senior/Family Development

FH is looking at a potential partnership with an existing developer to construct up to 120 units of senior and affordable housing.

Schedule:

~~03/2023~~03/2025 Tax Credit Application

~~12/2023~~12/2026 Construction Start

~~03/2024~~03/2028 Construction Completion

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Transit Oriented Development Central Fresno

The proposed development is located in the City of Fresno along one of the proposed Bus Rapid Transit (BRT) corridors. FH's vision for the project consists of 40-80 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit. We propose substantial rehabilitation and/or new construction of this site.

Schedule:

~~03/2024~~03/2025 Tax Credit Application

~~12/2024~~12/2025 Construction Start

~~03/2026~~03/2027 Construction Completion

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West Fresno Development

FH's vision will include new mixed-income residential development in a variety of communities in West Fresno, new community services, community-serving retail and commercial development, which may include the replacement of the existing family housing owned and operated by the Fresno Housing Authority. The project may include transfer of assistance from adjacent public housing units undergoing RAD conversion. The project may include a home ownership component. We propose substantial rehabilitation and/or new construction of this site.

Schedule:

~~03/2024~~^{03/2025} Tax Credit Application

~~12/2024~~^{12/2025} Construction Start

~~03/2025~~^{03/2027} Construction Completion

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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, FH 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

FH 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 FH request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties. FH policy for requesting proposals is listed below by unit type.

22.11.3 FH REQUEST FOR PROPOSALS FOR REHABILITATED AND NEWLY CONSTRUCTED UNITS

FH 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*

FH 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

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mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units that FH estimates it will be able to assist under the funding FH has made available. Proposals will be due in FH 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 FH by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

FH 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 FH'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 FH REQUESTS FOR PROPOSALS FOR EXISTING HOUSING UNITS

[24 CFR 983.51(c)]

FH 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 FH 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 FH SELECTION OF PROPOSALS: PREVIOUS COMPETITION

FH 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, FH 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. FH will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers FH 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 FH NOTICE OF OWNER SELECTION

[24 CFR 983.51(d)]

For Methods of Competitive Selection, FH 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. The written notice of proposal selection must require the owner or party that submitted the selected proposal to provide a written response to FH accepting the terms and requirements stated in the notice.

For selection of projects through Exceptions to Competitive Selection, FH must give prompt written notice of project selection to the owner **following FH's Board's resolution** approving the project-basing of assistance at the specific project. The written notice of project selection must require the owner of the project selected to provide a written response to FH accepting the terms and requirements stated in the notice.

Regardless of the method of selection, if the project contains PHA-owned units that are not owned by a separate legal entity from the PHA, the PHA must provide the written notice of proposal or project selection to the responsible PHA official, and that official must certify in writing that the PHA accepts the terms and requirements stated in the notice.

Within 10 business days of FH making the selection, FH will notify the selected owner in writing of the owner's selection for the PBV program. FH 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, FH will publish its notice for selection of PBV proposals for two consecutive days, or at least one day per week for at least two consecutive weeks 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. FH will also post the notice of owner selection on its electronic web site.

FH 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. FH will not make available sensitive owner information that is privileged,

such as financial statements and similar information about the owner. FH will make these documents available for review at its Central Office during normal business hours.

22.11.7 PROHIBITION OF EXCESS PUBLIC ASSISTANCE: SUBSIDY LAYERING REQUIREMENTS

[24 CFR 983.55]

FH 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.

FH 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]

Project Cap: The limitation on the number of units that may be project-based in a project is the greater of 25 units or 25 percent of the units in a project.

[FR Notice 1/18/17]

In general, the FH 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

[FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the project cap if the units are exclusively for elderly families or for households eligible for supportive services available to all families receiving PBV assistance in the project or the project is located in a census tract with a poverty rate of 20 percent or less (ie: areas where vouchers are difficult to use), as determined in the most recent American Community Survey Five-Year estimates. Beyond this, FH 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, and supportive services must be reasonably available to all families receiving PBV assistance in the project. The family does not actually have to accept and receive supportive services for the exception to apply to the unit.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the FH either issued the RFP under which the project was selected or the FH selected the project without competition, the unit met at least one of the two following conditions:
 - The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,
 - The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811).

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of replacement unit described in FR Notice 1/18/17.

22.11.9 EXCEPTED UNITS WITHIN A MULTIFAMILY PROJECT

[983.6(d) Increased cap. (1)(iii)] [FR 1/18/18]

“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. The FH does not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered. The service can be either provided on or off site but must be reasonably available.

The types of supportive services that may be offered include, but are not limited to:

- Service Coordinator or Service Specialist;

- Adult educational, health and wellness, or skill building classes for a minimum of 36 instructions hours per year
- Health and wellness services and programs for a minimum of 40 hours of service per year;
- Licensed child care for a minimum of 20 hours per week, Monday through Friday
- After-school tutoring and homework help for a minimum of four hours per week throughout the school year;
- Special needs case managers;
- Health or behavioral health services;
- After school program for special needs school age children for a minimum of 4 hours per week.

For qualifying families in Excepted Units under contract prior to April 18, 2017, all services will be monitored annually. Families will be required to certify their participation in the supportive services, which will be verified by FH. In addition, the owner must certify annually that it continues to provide a supportive services program. The owner must also notify FH 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 FH 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).

FH 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.

Contracts beginning on or after April 18, 2017- the families living in units under the supportive services exception's category may but -are not required to participate in the services. Units housing households eligible for one or more supportive services the services are must be made available to all assisted residents of the project.

This exception applies to any household eligible for the supportive services and is not limited to households with a family member with a disability. The supportive services do not need to be provided by the owner or on-site but the services must be reasonably available to the families receiving PBV assistance in the project.

22.11.10 SITE SELECTION STANDARDS

[24 CFR 983.57]

Compliance with PBV Goals, Civil Rights Requirements, and HQS

[24 CFR 983.57(b)]

FH 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 FH 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 FH's Agency Plan and the Housing Choice Voucher's administrative plan.

In addition, prior to selecting a proposal, FH 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 FH'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, FH 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 FH 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)]

FH 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 FH 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]

FH 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.). FH 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, FH 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.

FH will not enter into an Agreement or a HAP contract with an owner, and FH, 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.

FH must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. FH 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. FH 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)]

FH must examine the proposed site before the proposal selection date. If the units to be assisted already exist, FH 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, FH will not execute the HAP contract until the unit fully complies with HQS.

22.13.2 PRE-HAP CONTRACT INSPECTIONS

[983.103(b)]

FH must inspect each contract unit before execution of the HAP contract. FH 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, FH must inspect the unit. FH will not provide assistance on behalf of the family until the unit fully complies with HQS.

22.13.4 BIENNIAL/ANNUAL INSPECTIONS

[983.103(d)]

At least annually during the term of the HAP contract, FH 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, FH must re-inspect 100 percent of the contract units in the building.

22.13.5 OTHER INSPECTIONS

[983.103(e)]

FH 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. FH must take into account complaints and any other information coming to its attention in scheduling inspections.

FH 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 FH supervisory quality control HQS inspections, FH should include a representative sample of both tenant-based and project-based units.

22.13.6 INSPECTING FH-OWNED UNITS

[983.103(f)]

In the case of FH-owned units:

- The inspections must be performed by an independent agency as designated in this Chapter, rather than by FH.
- The independent entity will furnish a copy of each inspection report to FH and to the HUD field office.
- FH 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 FH 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, FH 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 FH agrees that upon timely completion of such development in accordance with the terms of the Agreement, FH will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

[PHA Discretion. With respect to development activity, FH may decide not to use an Agreement](#)

or may choose to execute an Agreement after construction or rehabilitation that complied with applicable requirements of §983.153 has commenced.

The circumstances under which FH will enter into a PBV HAP contract for newly constructed or rehabilitated housing without first entering into an Agreement and under which FH will enter into an Agreement after construction or rehabilitation that complied with applicable requirements of §983.153 has commenced will be subject to the following conditions:

1. The owner of the project must be able to document its compliance with all applicable requirements of §983.153 from the date of proposal submission (for housing subject to competitive selection) or from the date of the PHA's Board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection);
2. For housing subject to competitive selection, the PHA must confirm prior to the proposal selection date that the owner has complied with all applicable requirements of §983.153 from the date of proposal submission. For housing excepted from competitive selection, FH must confirm prior to executing the Agreement (if applicable) or HAP contract that the owner has complied with all applicable requirements of §983.153 from the date of the PHA's Board resolution approving the project-basing of assistance at the project; and
3. FH must comply with the notice requirement of §983.153(c)(3): *For any project to which labor standards apply, FH's written notice to the party that submitted the selected proposal or Board resolution approving PBVs must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.*

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 FH, 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 FH notice of proposal selection to the selected owner. However, FH will not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, FH will not enter into the Agreement until the environmental review is completed and FH has received environmental approval.

FH 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. FH 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 FH in the form and manner required by FH:

- 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 FH's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

FH 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. FH will specify any additional documentation requirements in the Agreement to enter into HAP contract.

22.16 FH ACCEPTANCE OF COMPLETED UNITS

[983.156]

Upon notice from the owner that the housing is completed, FH 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. FH 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, FH must not enter into the HAP contract.

If FH determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, FH 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]

FH 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

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 contract units in any building that will exceed the 25 percent per building cap, under the increased program cap (983.6(d)) or excepted from the project cap (983.54(c)) which will be set-aside for occupancy by qualifying families who qualify for such a unit;
- The initial rent to owner for the first 12 months of the HAP contract term.
- Whether FH has elected not to reduce rents below the initial rent to owner in accordance with 24 CFR 98.302(c)(2).

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22.17.3 EXECUTION OF THE HAP CONTRACT

[983.204]

FH will not enter into a HAP contract until

(a) eEach contract unit has been inspected and FH has determined that the unit complies with the Housing Quality Standards (HQS).

(b) For existing housing, the HAP contract must be executed promptly after FH selects the owner proposal and inspects the housing units.

(c) For newly constructed or rehabilitated housing **which "will not" undergo development activity after HAP contract execution** the HAP contract must be executed and effective

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promptly after FH has determined that the housing was completed in accordance with the applicable requirements, HQS, after FH has inspection requirements, and any additional design, architecture, or quality requirements specified by FH in accordance with 983.156(b)(1) or (c), inspected

For rehabilitated housing that “will” undergo development activity after HAP contract execution per 983.157, the HAP contract must be executed and effective promptly after the requirement of 983.157(c) are met (all proposed PBV units are added to the contract at this time, including units that do not comply with HQS or that will undergo development activity), 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.

(d) The effective date of the HAP contract must be on or after the date the HAP contract is executed. The HAP contract must be effective before the effective date of the first lease covering a contract unit occupied by an assisted family, and FH may not pay any HAP to the owner until the HAP contract is effective.

For existing housing, the HAP contract will be executed within 10 business days of FH determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of FH 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; FR Notice 1/18/17]

FH will enter into a HAP contract with an owner for an initial term of no less than one year and no more than twenty (20) years.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

FH 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 twenty (20) years. For example, FH may execute an initial HAP Contract good for 20 years for project-based units, and a separate HAP Contract granting an extension of another 20 years. When determining whether or not to extend an expiring PBV contract, FH 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 FH

[983.205(c); FR Notice 1/18/17]

The HAP contract must provide that the term of FH's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by FH 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.

In times of insufficient funding, FH will first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts

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, FH 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 STATUTORY NOTICE REQUIREMENTS: TERMINATION BY OWNER

[983.205(d); FR Notice 1/18/17]

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 FH.

Tenant-based assistance would not begin until the owner's required notice period ends. The FH must provide the family with a voucher and the family must also be given the option by the FH and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements.

The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance.

The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

22.17.7 REMEDIES FOR HQS VIOLATIONS

[983.207(b)]

FH 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 FH determines that a contract does not comply with HQS, FH 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.

FH 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

[983.207]

22.18.1 SUBSTITUTION OF CONTRACT UNITS

[24 CFR 983.207(A)]

At FH'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, FH must inspect the proposed unit and determine the reasonable rent for the unit.

22.18.2 ADDITION OF CONTRACT UNITS

[FR Notice 1/18/17]

FH and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however are still subject to the PBV program cap and individual project caps.

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 FH, 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 FH 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.

FH 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.

FH will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. FH 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 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 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)]

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 FH, 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 FH'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.

FH 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.

FH 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 FH's interest list. FH 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. FH will offer to place applicants who are listed on the tenant-based interest list on the interest list for PBV assistance.

FH 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.

In selecting families to occupy PBV units with special accessibility features for persons with disabilities, FH must first refer families who require such accessibility features to the owner, per 24 CFR 8.26 and 100.202.

22.20.3 ORGANIZATION OF THE INTEREST/WAITING LIST

[24 CFR 983.251 (c)]

FH 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. FH will offer to place applicants who are listed on the tenant-based interest list on the interest list for PBV assistance.

FH 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.

FH selects families in order of each site's specific needs and according to each individual site's criteria or preferences for occupancy.

In selecting families to occupy PBV units with special accessibility features for persons with disabilities, FH must first refer families who require such accessibility features to the owner, per 24 CFR 8.26 and 100.202.

FH will establish and manage separate interest lists for individual projects that are receiving PBV assistance. FH currently maintains separate waiting lists for the following PBV projects: see Appendix C.

Applicants who are selected from the interest list will be placed on the project specific waiting list and contacted by FH and/or third party to complete a full application process as units become available. Applicants will remain as "Selected" until invited to complete the full application process.

At the time of the interview, if the family household size does not meet the occupancy standards of the bedroom size they were pulled from, they will be returned to the interest list according to the appropriate bedroom size.

22.20.4 PREFERENCES

The PBV program and the tenant-based program in terms of local preferences are the same as stated in Chapter 3 of this Plan, unless the PBV Property serves a targeted population. The procedures will follow the property's management plan.

FH must provide an absolute selection preference for eligible in-place families as described in 24 CFR 983.251(b). FH will provide a selection preference:

- when required by the regulation (e.g., eligible in-place families),
- elderly families or units with supportive services or
- mobility-impaired persons for accessible units.

All are the same as defined in Chapter 3 of this Administrative Plan.

Preference for Services Offered

[24 CFR 983.251(d)]

FH may give preference to disabled families who need services offered at a particular project. The PHA may not, however, grant a preference to a person with a specific disability. [FR Notice 1/18/17].

22.20.5 IN-PLACE FAMILIES

[983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by FH 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 FH's interest list even if the interest list is closed. Once the family's continued eligibility is determined (FH 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 FH 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.

22.20.6 REFERRED BY PBV OWNER OR FOR LIMITED PREFERENCE PBV VOUCHER ALLOCATIONS

PBV Owner Referral

FH will place families referred by the PBV owner on its PBV interest list in order of date and time of referral.

Limited Preference PBV Voucher Referral

Periodically FH has the opportunity to target PBV's for special needs populations. FH 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 interest list is offered, applicants on the tenant-based interest list will be given the opportunity to be added to the project interest list. Additionally, referrals would come directly from the collaborating agency to be added to the project interest list. Families who meet the criteria would be given first preference for the limited preference units.

22.20.7 INCOME TARGETING

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during FH'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 FH may skip non-ELI families on the interest list in order to select an ELI family.

FH 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.

22.20.8 UNITS WITH ACCESSIBILITY FEATURES

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, FH must first refer families who require such features to the owner.

22.20.9 OFFER OF PBV ASSISTANCE

[983.251(e)]

Refusal of Offer

FH 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 interest list for tenant-based voucher assistance;

Deny any admission preference for which the applicant qualifies;

Change the applicant's place on the interest list based on preference, date, and time of application, or other factors affecting selection under FH's selection policy;

Remove the applicant from the tenant-based voucher interest 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 interest list, if applicable.

22.21 ACCEPTANCE OF OFFER

[983.252]

Family Briefing

When a family accepts an offer for PBV assistance, FH 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, FH must provide a briefing packet that explains how FH determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Information Packet

FH will provide each family attending the briefing with a packet which contains the following information:

1. How FH determines the total tenant payment for a family;

2. Family obligations under the program; and
3. Applicable fair housing information.

The same information that is provided to the Tenant Based participants is provided to the PBV applicants. Refer to Chapter 8 for more information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, FH must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. FH's reasonable accommodation policy is outlined in Chapter 1 of this Administrative Plan. In addition, FH 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

FH 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 FH.

Leasing

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by FH from FH's interest list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on FH's subsidy standards.

22.23 VACANCIES

22.23.1 FILLING VACANCIES

[983.254]

The owner must promptly notify FH of any vacancy or expected vacancy in a contract unit. After receiving such notice, FH must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. FH and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify FH in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

FH 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, FH 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. FH 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 FH's notice.

22.24 TENANT SCREENING

[983.255(a)]

22.24.1 FH RESPONSIBILITY

FH is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

FH will screen applicants prior to offering a voucher according to Chapter 4 and Chapter 15, and may deny applicants based on such screening.

FH must provide the owner with an applicant family's current and prior address (as shown in FH records) and the name and address (if known by FH) of the family's current landlord and any prior landlords.

FH will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

In addition, FH will apply the same policies regarding providing information FH may have about a family, directly to the owner as described below. A statement of FH's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family. FH must give the same types of information to all owners.

FH 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. FH 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 interest list, determined eligible by FH, 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 FH model lease.

FH will 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 FH (the names of family members and any FH-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, FH 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 FH a copy of all changes.

The owner must notify FH 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 FH and in accordance with the terms of the lease relating to its amendment. FH must re-determine 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 re-determined 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 FH 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.

FH 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. FH 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

[983.259260]

If FH determines that a family is occupying a wrong size unit, based on FH'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, FH must:

1. Notify the family and the owner of this determination within 30 days from its determination.; and
2. FH must offer the family the opportunity to receive continued housing assistance in another unit within 60 days from its determination..

~~promptly notify the family and the owner of this determination, and FH must offer the family the opportunity to receive continued housing assistance in another unit.~~

FH ~~FH's goal is to 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 FH's determination. FH will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance ~~in an appropriate- size unit.~~ in the same building or project
- PBV assistance in another project
- Tenant-based voucher assistance under the voucher program,
- Other comparable tenant-based rental assistance.

If continued housing assistance is not available as described above, FH must remove the wrong-size or accessible unit from the HAP contract to make voucher assistance available to issue the family a tenant-based voucher. (§983.206(b) does not apply).

Termination of Housing Assistance Payments

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If FH offers the family a tenant-based voucher, FH must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by FH) or the date upon which the family vacates the unit 983.260(c)(1)(i). If the family does not move out of the wrong-sized unit or accessible unit by the expiration date of the term of the family's voucher, FH must remove the unit from the HAP contract.

If FH offers the family another form of continued housing assistance (other than tenant-based rental assistance under the voucher program), FH must terminate the housing assistance payments for the wrong-sized or accessible unit and remove the unit from the HAP contract when: 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 FH, or both, FH must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by FH:

- In the case of an offer by FH of PBV assistance or other project-based housing assistance in an appropriate-size unit, **the family does not accept the offer** and does not move out of the PBV unit within a reasonable time as determined by FH, not to exceed 90 days. The family may request and FH may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate affordable, safe, and geographically proximate replacement housing.
- In the case of an offer by FH of PBV assistance or other project-based housing assistance in an appropriate-size unit, **the family accepts the offer** but does not move out of the PBV unit within a reasonable time as determined by FH, not to exceed 90 days.
- In the case of an offer by FH of *other comparable tenant-based* rental assistance, the **family either accepts or does not accept the offer** but does not move out of the PBV unit within a reasonable time as determined by FH, not to exceed 90 days. The family may request and FH may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate affordable, safe and geographically proximate replacement housing.

FH may make exceptions if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Reinstatement

FH may reinstate a unit removed under this section to the HAP contract after the family vacates the property, in accordance with §983.207(b).

When FH 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, FH will terminate the housing assistance payments at the expiration of this 30-day period.

FH 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 FH. If the family wishes to move with continued tenant-based assistance, the family must contact FH to request the rental assistance prior to providing notice to terminate the lease. When voucher assistance is issued to the family and the search time expires, FH must issue the voucher to the next eligible family before issuing another voucher to the family that requested to move.

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 FH;~~ and ~~bc)~~ PBV participant has given advance notice of intent to vacate to the owner and FH.

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, FH 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, FH 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]

FH 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:

- The units are exclusively for elderly families

- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less (ie: areas where vouchers are difficult to use), as determined in the most recent American Community Survey 5-year estimates.

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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 FH 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.

Further, when a family (or remaining members of a family) residing in an excepted unit 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 or the family is no longer an elderly family or disabled), the PHA may do one of the following two options:

- A. Substitute the excepted unit for a non-excepted unit (if possible, under 24 CFR 983.207(a)).
- B. Remove the unit from the PBV HAP contract and provide the family with tenant-based assistance. Once the family vacates the unit may be added back to the HAP contract for eligible exception.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. FH or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

The HOTMA amendments entirely eliminate the statutory exemption from a project cap for projects that serve disabled families and modify the supportive services exception. Previously, the statutory exception required that the family must be actually receiving the supportive services for the individual unit to be exempted from the income-mixing requirement. The new requirement provides that the project must make supportive services available to all assisted families in the project (but that the family does not have to actually accept and receive the supportive services for the exception to apply to the unit). However, projects that are using the former statutory exemptions will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and the owner agree by mutual consent to change the conditions to the HOTMA requirement. The PBV HAP contract may not be changed to the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at the project (e.g., excepted units at the project included units designated for the disabled, and changing to the HOTMA standard would result in those units no longer being eligible as an excepted unit unless the owner will make supportive services available to all assisted families in the unit.).

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 re-determined 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 FH, 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, FH must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, FH must use the most recently published FMR and the utility allowance schedule in effect at the time of reexamination. At its discretion, FH 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, FH 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, FH 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

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owner must explain the need to use the previous FMR's or utility allowances and include documentation in support of the request. FH 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, FH 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 FH determines it is necessary due to budgetary constraints.

Small Area FMRs (SAFMRs) PIH 2018-01

The usage of SAFMRs is designed to promote lease up in opportunity areas with rental assistance at a level that makes higher rent areas more affordable to voucher participants.

FH may elect to either opt-in to the usage of Small Area FMR's or set Payment Standards using Small Area FMR's in select ZIP code areas. Should the usage of SAFMRs be utilized by FH, payment standard information will be made available in briefing materials. (Also see Ch. 11.2 Setting the Payment Standards for the Voucher Program).

22.27.4 REEXAMINATION OF RENT

[983.302]

FH must re-determine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

22.27.5 RENT INCREASE

If an owner wishes to request an increase in the rent to owner from FH, 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 FH. FH 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 FH 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

FH 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.

22.27.6 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 FH'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.

22.27.7 NOTICE OF RENT CHANGE

The rent to owner is re-determined by written notice by FH to the owner specifying the amount of the re-determined rent. FH 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.

FH 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 FH.

22.28.1 WHEN RENT REASONABLE DETERMINATIONS ARE REQUIRED

FH must re-determine 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;
- FH 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, FH 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 FH 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 FH. The comparability analysis may be performed by FH 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, FH 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 FH-OWNED UNITS

[983.303(f)]

See *Project-Based Vouchers and FH-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 FH 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, FH 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 FH agree on a later date.

Except for discretionary vacancy payments, FH 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 FH 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 FH determines that the vacancy is the owner's fault.

If FH determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, FH will notify the landlord of the amount of housing assistance payment that the owner must repay. FH will require the owner to repay the amount owed in accordance with Chapter 18 of this administrative plan.

At the discretion of FH, the HAP contract may provide for vacancy payments to the owner. FH may only make vacancy payments if:

- The owner gives FH 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 FH 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 FH and must provide any information or substantiation required by FH 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 FH 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 FH may require the owner to provide documentation to support the request. If the owner does not provide the information requested by FH 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 FH in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in FH 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 FH 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 FH. The owner must immediately return any excess payment to the tenant.

Minimum Rent

"Minimum rent" is \$25. 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.

For Hardship Requests for an exemption from the minimum rent, please refer to Chapter 6.12.1

22.32.1 TENANT AND FH 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 FH.

Likewise, FH is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. FH is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. FH will not use housing assistance

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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, FH 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. FH 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: PROJECT-BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

23.1 INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

SECTION ONE: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

SECTION TWO: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

SECTION THREE: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

SECTION FOUR: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

SECTION FIVE: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

SECTION SIX: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

SECTION SEVEN: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

SECTION EIGHT: Payments to Owner. This part describes the types of payments owners may receive under this program.

SECTION ONE: GENERAL REQUIREMENTS

23.1.1 OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.

Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years.

In other words, RAD aligns eligible properties more closely with other affordable housing programs.

- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.
- Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:
 - Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
 - Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH)

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

23.1.2 APPLICABLE REGULATIONS

This section discusses notices and guidance that pertain to the project-based voucher program under RAD. Fresno Housing does not have projects governed by either Notice.

- PIH 2012-32, REV-2 or REV-3
- PIH 2012-32 REV-3: For projects that the PHA was seeking conversion, including having a CHAP issued, or closed a project between January 12, 2017 and September 4, 2019.
- PIH 2012-32 REV-2: For projects that the PHA was seeking conversion, including a CHAP issued, or closed a project prior to January 12, 2017.

Fresno Housing follows PIH 2019-23 for projects that closed on or after September 5, 2019.

CA006	
Project	Closing Date
Solivita Commons	December 2019
The Monarch at Chinatown	August 2020
Alegre Commons	April 2022
The Arthur at Blackstone	May 2022
Avalon Commons Phase I	April 2023
Promesa Commons	April 2021
Step Up at 99	July 2023

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Project	Closing Date	RAD Notice
Solivita Commons	December 2019	PIH 2019-23: For projects that closed on or after September 5, 2019.
The Monarch at Chinatown	August 2020	
December 2020	December 2020	
Alegre Commons	April 2022	
Corazon del Valle commons	May 2022	
The Arthur at Blackstone		

23.1.3 TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE

[24 CFR 983.2]

This chapter of the administrative plan closely follows the PBV program regulations. As a result, there are topics explicitly discussed in this chapter even though the RAD PBV rules and resulting policies are the same as those for the tenant-based voucher program (e.g., abatement of HAP, denial of admission, utility reimbursements).

On the other hand, there are many topics that are not covered in this chapter because they are not explicitly mentioned under RAD PBV regulations, notices, or guidance; yet it must be made clear what policies the PHA will follow for the RAD PBV program (e.g., processing reexaminations, fair housing, program integrity).

This policy is intended to minimize the duplication of policies that are the same for the tenant-based voucher and RAD PBV programs, and make clear to PHA staff, owners, and participants that unless prohibited by program regulations or otherwise stated in this chapter, the PHA policies related to tenant-based vouchers also apply to RAD PBV assistance.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

23.1.4 RELOCATION REQUIREMENTS

This section describes the relocation requirements for projects that have applied for conversion of assistance under the first component of RAD after and prior to November 10, 2016.

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under- housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent,

involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner’s offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

23.1.5 EQUAL OPPORTUNITY REQUIREMENTS

[24 CFR 983.8; Notice PIH 2016- 17]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.

SECTION TWO: PBV PROJECT SELECTION

23.2.1 OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

23.2.2 OWNERSHIP AND CONTROL

[Notice PIH 2019-23]

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.
- Control may be established through the terms of the project owner’s governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

23.2.3 PHA-OWNED UNITS

[24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

FH Policy

If units converted to PBV under RAD are PHA-owned housing, the PHA will use Affordable Housing.com, formerly known as GoSection8.com for rent reasonableness rent-setting, and Housing Quality Inspections will be conducted by Sterling, LLC as the HUD-approved independent entities.

23.2.4 SUBSIDY LAYERING REQUIREMENTS

[Notice PIH 2019-23]

For projects governed by Notice PIH 2019-23, the following language applies:

- In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating

reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

- Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

23.2.5 PBV PERCENTAGE LIMITATION AND UNIT CAP

[Notice PIH 2019-23 Page 52]

PBV Percentage Limitation

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

Unit Cap Limitation

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

23.2.6 SITE SELECTION STANDARDS

[Notice PIH 2019-23; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentrating of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, and non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

23.2.7 ENVIRONMENTAL REVIEW

[Notice PIH 2019-23; Environmental Review Requirements for RAD Conversions, March 2019]

The financing plan includes a requirement for an environmental review. HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

SECTION THREE: DWELLING UNITS

23.3.1 OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

23.3.2 HOUSING QUALITY STANDARDS

[24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]

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.

23.3.3 HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

[Notice PIH 2016-17]

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.

Federal accessibility requirements apply to all conversions, whether they entail new construction, alterations, or existing facilities. 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 24 CFR part 8. The PHA must ensure that the percentage of

accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991 must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

23.3.4 INSPECTING UNITS

This section identifies special inspection requirements for the PBV program including initial, turnover, annual/biennial, and other inspections. In addition, it explains requirements related to the inspection of PHA-owned units.

Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23]

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA 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.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contracts units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA 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 PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983. 57 and 983.103(g)103(f); Notice PIH 2017-21]

In the case of PHA-owned units, the inspections must be performed by an independent entity designated by the PHA and approved by HUD (§983.57). The independent entity must furnish

a copy of each inspection report to the PHA ~~and to the HUD field office where the project is located~~. The PHA must take all necessary actions in response to inspection reports from the independent agency entity, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

SECTION FOUR: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

23.4.1 OVERVIEW

[PBV Quick Reference Guide 10/14]

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

23.4.2 HAP CONTRACT REQUIREMENTS

Contract Information [PBV Quick Reference Guide 10/14; Notice PIH 2019-23]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution of the HAP Contract [RADBlast! 7/11/16]

When the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract.

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2019-23]

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher

agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Mandatory Contract Renewal [Notice PIH 2019-23]

By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for HQS Violations [24 CFR 983.208(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period for which the unit does not comply with HQS. If the PHA determines that a contract unit does not comply with HQS, the PHA 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.

The PHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

23.4.3 AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH 2019-23]

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among unoccupied units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in the quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

FH Policy: FH may float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

Reduction in HAP Contract Units [Notice PIH 2019-23]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

23.4.4 HAP CONTRACT YEAR AND ANNIVERSARY DATES

[24 CFR 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term. The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

23.4.5 OWNER'S RESPONSIBILITIES UNDER THE HAP CONTRACT

[24 CFR 983.210]

When the owner executes the HAP contract, he or she 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 PHA, 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;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

23.4.6 VACANCY PAYMENTS

[24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

FH Policy - The PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

SECTION FIVE: SELECTION OF PBV PROGRAM PARTICIPANTS

23.5.1 OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

23.5.2 PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION

[Notice PIH 2019-23]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, in-place family means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

23.5.3 ELIGIBILITY FOR PBV ASSISTANCE

[24 CFR 983.251(a) and (b)]

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 PHA, 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 PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the

family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

23.5.4 ORGANIZATION OF THE WAITING LIST

[24 CFR 983.251(c); PIH 2019-23]

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants will have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement or complaint brought by HUD.

The PHA will assess any changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, the PHA will use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

The PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Fresno Housing's Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Appendix A).

23.5.5 SELECTION FROM THE WAITING LIST

[24 CFR 983.251(c)]

FH must provide an absolute selection preference for eligible in-place families as described in 24 CFR 983.251(b). FH will provide a selection preference:

- when required by the regulation (e.g., eligible in-place families),
- elderly families or units with supportive services or

- mobility-impaired persons for accessible units.

All preferences are the same as defined in Chapter 3 of this Administrative Plan.

Preference for Services Offered

[24 CFR 983.251(d)]

FH may give preference to disabled families who need services offered at a particular project. The PHA may not, however, grant a preference to a person with a specific disability. [FR Notice 1/18/17].

23.5.6 OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available. In addition, the PHA 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 PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

23.5.7 OWNER SELECTION OF TENANTS

[24 CFR 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.

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

Refer to Chapter 22.31 Vacancy Payments: The owner must follow the Vacancy Payment policy in Chapter 22, Section 31 (22.31)

23.5.8 TENANT SCREENING

[24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

The PHA 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 PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housingDrug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy

SECTION SIX: OCCUPANCY

23.6.1 OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

23.6.2 LEASE

[24 CFR 983.256]

The tenant must have legal capacity to enter into 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.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]

- The lease for a PBV unit must specify all of the following information:
- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f); *PBV Quick Reference Guide* 10/14]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension

of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA 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 PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons as an owner may in the tenant-based voucher program (24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease as well as the PHA’s administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by FH 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. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258; Notice PIH 2019-23]

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. The amount of rent the family pays to the owner in this situation differs under REV-2 and REV-3 of Notice PIH 2012-32. Under REV-2, the family will pay with owner an amount equal to their TTP. Under REV-3 of the Notice, the family will pay the owner the lower of the family's TTP, less the utility allowance, or any applicable maximum rent under LIHTC regulations. Under both notices, the family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit

from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

The PHA will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.

If a participating family who was admitted after the RAD conversion receives zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259; PBV Quick Reference Guide 10/14]

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

23.6.3 PUBLIC HOUSING FSS AND ROSS PARTICIPANTS

[Notice PIH 2019-23]

This section discusses public housing FSS participants at the time of conversion to RAD PBV.

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements

23.6.4 RESIDENT PARTICIPATION AND FUNDING

[Notice PIH 2019-23]

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

23.6.5 MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

FH Policy

The PHA 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 PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project; PBV assistance in another project; and Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit of accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA 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 PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

FH Policy

When the PHA 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 PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member

Family Right to Move [24 CFR 983.261]

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 PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA 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 PHA 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.

Choice Mobility [Notice PIH 2019-23]

When may the family request a choice mobility voucher?

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

How will the PHA maintain the waiting list if no vouchers are available when families request choice mobility?

The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

Will the PHA establish a turnover cap for choice mobility?

The PHA will not establish a choice mobility cap, however, reserves the right to reevaluate when it approaches its 20 percent program cap.

Emergency Transfers under VAWA [Notice PIH 2017-08]

HUD requires that the PHA include policies that address when a victim of domestic violence, dating violence, sexual assault, or stalking has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the PHA will provide several options for continued assistance in accordance with its VAWA Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (See Appendix A).

23.6.6 REEXAMINATIONS

[PBV Quick Reference Guide 10/14]

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

23.6.7 EARNED INCOME DISALLOWANCE

[Notice PIH 2019-23]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level

based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

23.6.8 RESIDENTS' PROCEDURAL RIGHTS

[Notice PIH 2019-23]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed 30 days
- If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

23.6.9 INFORMAL REVIEWS AND HEARINGS

[Notice PIH 2019-23]

This section describes the circumstances under which residents in converted projects have the right to request informal hearings and the requirements concerning such hearings. No policy decisions are required.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the

contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 19, Informal Hearings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 19)

The owner must provide an opportunity for an informal hearing before an eviction.

SECTION SEVEN: DETERMINING CONTRACT RENT

23.7.1 INITIAL CONTRACT RENTS

[NOTICE PIH 2019-23]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance
- The reasonable rent
- The rent requested by the owner

23.7.2 ADJUSTING CONTRACT RENT

[notice pih 2019-23; pbv quick reference guide 10/14]

Contract rents will be adjusted annually only by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted

units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

23.7.3 UTILITY ALLOWANCES

[PIH 2019-23; PBV Quick Reference Guide 10/14]

What utility allowance will the PHA use for RAD PBV developments?

The PHA will use site-specific utility allowances unless otherwise noted in the management plan. The site-specific utility allowance would apply to any non-RAD PBV units in the project as well.

23.7.4 REASONABLE RENT

[24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract except to correct errors, or additional subsidy to the property, or to realign utility responsibilities.

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 PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The

independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

SECTION EIGHT: PAYMENTS TO OWNER

23.8.1 HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA 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 PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA 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

23.8.2 VACANCY PAYMENTS

[24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault. The PHA will require the owner to repay the amount owed in accordance with the policies in Chapter 22. Refer to Chapter 22.31 Vacancy Payments: The owner must follow the Vacancy Payment policy in Chapter 22, Section 31 (22.31)

23.8.3 TENANT RENT TO OWNER

[24 CFR 983.353; Notice PIH 2019-23]

Initial Certifications [Notice PIH 2019-23]

This section clarifies the amount that will be used to determine tenant rent on the family's initial certification.

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA 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 PHA 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 PHA. The owner must immediately return any excess payment to the tenant

Initial Certifications [Notice PIH 2019-23]

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non- RAD PBV units located in the same project are subject to the same requirements.

Tenant and PHA 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 PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero. The PHA will make utility reimbursements directly to the family.

23.8.4 PHASE-IN OF TENANT RENT INCREASES

[Notice PIH 2019-23]

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid

TTP and the calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

23.8.5 OTHER FEES AND CHARGES

[24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

CHAPTER 24: PROGRAM INTEGRITY

24.1 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.

24.2 CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

FH does not intend to undertake an inquiry or an audit of a participant family arbitrarily. FH's expectation is that families will comply with HUD requirements, provisions of the lease, and other program rules. FH staff will make an effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, FH 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 FH's attention, to investigate such claims.

FH 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, email, 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 FH 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, FH's knowledge of the family, or is discrepant with statements made by the family.

Verification or Documentation

If FH 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).

24.3 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 FH's expectations for cooperation and compliance.
- Program Orientation Session: Mandatory orientation sessions will be conducted by FH 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: FH staff will 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.

24.4 STEPS TO DETECT PROGRAM ABUSE AND FRAUD

FH 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 re-certifications, 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 FH 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 FH wherein unreported income sources are disclosed.
- When a family's expenditures exceed his/her reported income, and no plausible explanation is given.

24.5 FH'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

FH staff will encourage all families to report suspected abuse to FH. 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 FH 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, FH staff will initiate an investigation to determine if the allegation is true or false.

Interviews with Head of Household and/or Family Members

FH staff person will discuss the allegation (or details thereof) with the head of household and/or family members by scheduling an appointment at FH'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 FH review.

Enterprise Income Verification (EIV) Inquiries

FH will conduct Enterprise Income Verification inquiries to identify households that may have under reported their household's annual income.

24.6 HOW FH REVIEWS ALLEGATIONS OF ABUSE AND FRAUD

If FH determines that an allegation or referral warrants follow-up, FH 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, FH 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 FH's review.

Other Agencies Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records If relevant, FH 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.

24.7 PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY FH

Documents and other evidence obtained by FH 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 FH staff unless they are involved in the process, or have information, which may assist in the investigation.

FH 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, FH will track all repayment agreements resulting from an investigation to ensure families are staying current on their repayment agreements.

24.8 EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, FH 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.

24.9 NOTIFICATION OF INVESTIGATION RESULTS

The family will be notified by mail and/or email 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 FH.

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, FH will proceed to issue the Final Termination Notice.

24.10 DISPOSITIONS OF CASES INVOLVING MISREPRESENTATIONS

In all cases of misrepresentations involving efforts to recover monies owed, FH may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Civil Remedies

FH may:

- Terminate tenancy and demand payment of restitution in full.
- Terminate assistance and execute an administrative repayment agreement in accordance with FH'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 FH's repayment policy.

Criminal Referral: If FH believes that the case meets the criteria established by FH for prosecution, FH may refer the case to other enforcement agencies.

Termination by FH

In any event, and at the sole discretion of FH, FH 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.

24.11 FRAUD AND PROGRAM ABUSE RECOVERIES

[24 CFR 982.163; 24 CFR 792.202; 24 CFR 982.555]

FH may retain a portion of program fraud losses that FH recovers from a family or owner through litigation, court order, or a repayment agreement.

FH 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 FH 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 FH 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 FH related to the collection, these costs must be deducted from the amount retained by FH.

24.12 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.

24.13 OWNER REIMBURSEMENT TO FH

In all cases of overpayment of subsidy caused by the owner, the owner must repay to FH any

excess subsidy received. FH may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, FH may allow the owner to pay in installments over a period of time.

In cases where the owner has received excess subsidy, FH will require the owner to repay the amount owed in accordance with the policies in Chapter 18.

24.14 PROHIBITED OWNER ACTIONS

An owner participating in the HCV program must not:

- Make any false statement to FH [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 FH
- 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 FH Board of Commissioners, employees, contractors, or other FH representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to FH
- Residing in the unit with an assisted family

24.15 REMEDIES AND PENALTIES PERTAINING TO THE OWNER PROGRAM ABUSE

When FH determines that the owner has committed program abuse, FH 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 FH programs.
- Refer the case to state or federal officials for criminal prosecution as described in this chapter.

CHAPTER 25: EIV SECURITY POLICIES AND PROCEDURES

25.1 PRIVACY PROTECTION POLICY

FH accesses upfront income verification data through HUD's Enterprise Income Verification (EIV) System. FH 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*. FH 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.

25.2 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 A 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, FH will implement three types of safeguards, technical safeguards, administrative safeguards, and physical safeguards.

25.3 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 90 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

25.4 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 FH's policy and procedures to shred all UIV information upon purging tenant file.

25.5 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

25.6 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

25.7 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 FH Executive Director or the designee with the written documentation; and
- FH Executive Director or the designee should provide the HUD Field Office Public Housing Director with the written documentation

25.8 ENFORCEMENT

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

25.9 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.

CHAPTER 26: HOMELESS INITIATIVE PROGRAMS AND PARTNERSHIPS

The Housing Authority of the City of Fresno (FH) 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-ENTRY FACTORS RELATED TO HOMELESS INITIATIVES PROGRAMS AND PARTNERSHIPS				
Program Specific Criteria	CalWORKs HSP	HOPWA	HOME TBRA	FMCoC Partnerships
Eligibility Criteria	DSS determination of families with children enrolled in or eligible for CalWORKs assistance Eligible CalWORKs families who are homeless or at risk of homelessness	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	Individuals/families who are homeless, at risk of homelessness or transitioning from a homeless assistance program Income must be at or below 80% AMI	Literally or chronic homeless as defined by HUD, 24 CFR 578.3
Outreach Responsibility	Department of Social Services (DSS) (primary) & FH (secondary)	West Care California (WC-CA) primary; FH (secondary)	FMCoC Coordinated Entry System (primary); FH (secondary)	FMCoC Coordinated Entry System
Partnership or MOU?	MOU between FH & DSS	ICA between FH and WC-CA	MOU between the City of Fresno and FH	MOU between FMCoC partner and FH
Requires Referral? Y/N	Yes	Yes. Referral from 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	Yes – household must meet medical diagnosis of target population	Yes, homeless status and income at or below 80% AMI	Yes, homeless status is defined by HUD, 24 CFR 578.3

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	assistance as defined by DSS			

PARTICIPANT-RELATED FACTORS FOR HOMELESS INITIATIVES PROGRAMS AND PARTNERSHIPS				
Program Specific Criteria	CaWORKs	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 the City of Fresno	No, families must live within the City of Fresno	No, families must live within the County of Fresno or Madera County.
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 27: SPECIAL PURPOSE VOUCHERS

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27.1 INTRODUCTION

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations.

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FH Policy

The PHA will administer the special purpose vouchers listed below. This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into six sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Foster Youth to Independence (FYI) program

Part III: Veterans Affairs Supportive Housing (VASH)

Part IV: Mainstream voucher program

Part V: Non-Elderly Disabled (NED) vouchers

Part VI: Project Basing Special Purpose Vouchers

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

27.1 PART I: FAMILY UNIFICATION PROGRAM (FUP)

27.1.1 PROGRAM OVERVIEW [FACT SHEET, HOUSING CHOICE VOUCHER PROGRAM FAMILY UNIFICATION PROGRAM (FUP)]

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth. Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

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- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.
- There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA's waiting list and determining whether they are eligible to receive assistance under the PHA's HCV program.

Assigning Vouchers [FUP FAQs]

The PHA has not designated any specific number or percentage of FUP vouchers for youths or families. The PHA will serve all referrals that meet program eligibility requirements, up to the PHA's FUP voucher allocation.

27.1.2 PUBLIC CHILD WELFARE AGENCY (PCWA)

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU).

The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

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FH Policy

The PHA has entered into an MOU with the following partnering organizations:

Fresno County Department of Social Services (DSS).

Supportive Services

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

FH Policy

The PCWA will provide supportive services for all FUP youth for a period of 36 months.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

FH Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

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27.1.3 FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

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FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

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- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and

- how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.
- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
 - Does not have a safe or adequate source of heat
 - Should, but does not, have a kitchen
 - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
 - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires 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
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability

27.1.4 FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

Housing Authority of the City of Fresno
2025 HCV Administrative Plan

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- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
- The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
- Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576. Is homeless or at risk of becoming homeless at age 16 or older;
 - *At risk of being homeless* is fully defined at 24 CFR 576.2.
 - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
 - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below ~~30~~ 50 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

27.1.5 ASSISTANCE PERIOD

[FR Notice 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

Extension of Assistance

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

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While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

FH Policy

The PHA defines *incapacitated person* as one's physical or mental inability to manage one's own affairs.

The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA- provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

FH Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA- provided form. This certification is the only documentation that the FUP youth must submit.

The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

FH Policy

The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA- provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

FH Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10-16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education.

Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school

equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

FH Policy

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:

- Aligns with the skill needs of industries in the economy of the state or regional economy involved;
- Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
- Includes counseling to support an individual in achieving the individual’s education and career goals;
- Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
- Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
- Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
- Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

FH Policy

The PHA will consider the youth to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth have enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

FH Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been "unable to enroll" in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described

above.

FSS Enrollment After 48 Months

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

FH Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to a FUP youth.

Extensions of Assistance

At the 36-month and 48-month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Annual Reexam

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the

education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

FH Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date.

When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency chapter.

The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same

conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meet one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance

Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Informal Hearings and Reviews chapter.

27.1.6 REFERRALS AND WAITING LIST MANAGEMENT

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

FH Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date

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the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

FH Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV

waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

Waiting List Selection

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

27.1.7 PHA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Eligibility for Admissions chapter.

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The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

FH Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the Eligibility for Admissions chapter

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

FH Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Eligibility for Admissions chapter or any eligibility criteria listed in this section will be notified by the PHA

in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

27.1.8 LEASE UP

[FR Notice 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

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During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

FH Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies of this administrative plan. FUP youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

27.1.9 TERMINATION OF ASSISTANCE

General Requirements

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With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on FH Policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

FH Policy

The PHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the PHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the PHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

FUP Youth Vouchers

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

FH Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

27.1.10 FUP PORTABILITY

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

Considerations for FUP Youth Vouchers

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

27.1.11 PROJECT-BASING FUP VOUCHERS

[Notice PIH 2017-21; FR Notice 1/24/22]

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

FH Policy

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The PHA will not project-based FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

27.2 PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE

27.2.1 PROGRAM OVERVIEW

[Notice PIH 2020-28; Notice PIH 2021-26; FR Notice1/24/22]

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

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Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28 or Notice PIH 2021-26, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers for those PHAs with 90 percent or greater utilization of its FUP and/or FYI vouchers, as applicable. For competitive awards, the number of vouchers is dependent on PHA program size and need.

27.2.2 PARTNERING AGENCIES

[Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar]

Public Child Welfare Agency (PCWA)

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The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

FH Policy

The PHA will implement a Foster Youth to Independence (FYI) program in partnership with *(There are no current partners at this time).*

The PCWA is responsible for:

- Identifying FYI-eligible youth;

- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to the PHA that the youth is eligible; and
- Providing or securing supportive services for 36 months.

Continuum of Care (CoC) and Other Partners

HUD strongly encourages PHAs to add other partners into the partnership agreement with the PCWA such as state, local, philanthropic, faith-based organizations, and the CoC, or a CoC recipient it designates.

FH Policy

In addition to the PCWA, the PHA will implement the FYI program in partnership with *(There are no current partners at this time)*

27.2.3 YOUTH ELIGIBILITY CRITERIA

[Notice PIH 2021-26; FYI Q&As; FYI FAQs]

The PCWA is responsible for certifying that the youth have prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday);
 - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
 - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;
 - *At risk of being homeless* is fully defined at 24 CFR 576.2.

This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction

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program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

27.2.4 SUPPORTIVE SERVICES

[Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]

Supportive services may be provided by the PHA, PCWA or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services); Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook- up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

FH Policy

Additional supportive services will not be offered.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.

27.2.5 REFERRALS AND WAITING LIST MANAGEMENT

[Notice PIH 2021-26;

FYI Updates and Partnering Opportunities Webinar FYI FAQs] Referrals

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The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide the PHA with HCV eligibility documents.

FH Policy

The PHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide the PHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

The PHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork

Waiting List Placement [Notice PIH 2021-26 and FYI FAQs]

The PHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the

list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new referrals. The PHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR

982.206 for giving public notice when opening and closing the waiting list apply (see section 4- II.C., Opening and Closing the Waiting List of this administrative plan).

FH Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

Waiting List Selection

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

27.2.6 PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meet HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the youth's criminal history.

FH Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

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Additional Eligibility Factors

Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

FH Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

27.2.7 LEASE UP [FR NOTICE 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

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During the family briefing, PHAs must inform the FYI voucher holder of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

FH Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-

III.F. of this policy. FYI youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5.

Vouchers will be issued in accordance with PHA policies in Chapter 5, Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the youth locates a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the FH Policy in Chapter 9.

Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2021-26].

Turnover [FYI FAQs]

For PHAs awarded FYI Tenant Protection Vouchers (TPVs) under Notice PIH 2019-20 where the recipient of the FYI TPV leaves the program, the PHA may request an FYI voucher under the requirements of Notice PIH 2021-26.

For PHAs awarded FYI vouchers under Notices PIH 2020-28 and PIH 2021-26, where the recipient of the FYI voucher leaves the program, the PHA must continue to use the FYI voucher for eligible youth upon turnover. Where there are more eligible youth than available FYI turnover vouchers, the PHA may request an FYI voucher under the requirements of Notice PIH 2021-26. If another eligible youth is not available, the PHA must notify HUD, and HUD will reduce the PHA's HCV assistance to account for the removal of the FYI assistance from the PHA's HCV baseline.

27.2.8 MAXIMUM ASSISTANCE PERIOD

[Notice PIH 2021-26 and FYI FAQs; FR Notice 1/24/22]

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

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Participants do not "age out" of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

Extension of Assistance

FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

FH Policy

The PHA defines *incapacitated person* as one's physical or mental inability to manage one's own affairs. PHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception.

The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

FH Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

FH Policy

The PHA will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to

participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

FH Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate’s degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education.

Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

FH Policy

The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, the PHA may make exceptions to this

requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled.

- The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
- The FYI voucher holder was employed. [FH Policy](#)

The PHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages the PHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

FH Policy

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, the PHA will remind the FYI voucher holder at their second regular reexam of the education, workforce development, and employment requirements described above.

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, the PHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The PHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension.

FH Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to an FYI voucher holder.

Extensions of Assistance

At the 36-month and 48-month reexamination, the PHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Annual Reexam

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA

does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36- month or 48-month time periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

FH Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FYI voucher holder on the PHA's program with a written notification informing them that they may receive an extension of their FYI assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the PHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 20.

The PHA will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of

the 36-month or 48- month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements.

In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the FYI voucher holder meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, the PHA must provide the FYI voucher holder the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, the PHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 19.

27.2.9 TERMINATION OF ASSISTANCE [FYI FAQs]

Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 12. Given the statutory time limit that requires FYI vouchers to sunset, a PHA must terminate the youth's assistance once the limit on assistance has expired.

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A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason.

FH Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

27.2.10 PORTABILITY [FYI FAQs]

Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers. If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth become a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

27.2.11 PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR NOTICE 1/24/22]

The PHA may project-base certain FYI vouchers without HUD approval in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28 and PIH 2021-26. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

FH Policy

The PHA will not project-base FYI vouchers, at this time. All FYI vouchers will be used to provide tenant-based assistance, when available/active.

27.3 PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

27.3.1 OVERVIEW

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Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;

The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.

- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional

statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements of this policy apply.

In order to expedite the screening process, the PHA may provide all forms and a list of documents required for the VASH application to the VAMC. Case managers may work with veterans to fill out the forms and compile all documents prior to meeting with the PHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the PHA prior to the meeting in order to allow the PHA time to review them and start a file for the veteran.

After the VAMC has given the PHA a complete referral, the PHA will perform an eligibility screening within five business days of receipt of a VAMC referral.

27.3.2 HCV PROGRAM ELIGIBILITY [FR NOTICE 9/27/21]

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

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- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

Social Security Numbers

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which

contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA- issued identification card may also be used to verify the SSN of a homeless veteran.

Proof of Age

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

Photo Identification

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

Income Eligibility

The PHA must determine income eligibility for VASH families in accordance with 24 CFR

982.201. Income Eligibility will be used at the 80% AMI. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

FH Policy

While income-targeting requirements will not be considered by the PHA when families are referred by the partnering VAMC, the PHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

Screening

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, FH Policy in Sections 3-III.B. through 3-III.E.

do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH*, p. 6].

Denial of Assistance [Notice PIH 2008-37]

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

27.3.4 CHANGES IN FAMILY COMPOSITION

Adding Family Members [FR Notice 9/27/21]

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

Remaining Family Members [HUD-VASH Qs and As]

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH- eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

Family Break Up [HUD-VASH Qs and As]

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

27.3.5 LEASING [FR NOTICE 9/27/21]

Waiting List

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Policies from the Selection from the Interest List for Admission chapter

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relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

Exception Payment Standards

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

Voucher Issuance

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

FH Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

Initial Lease Term

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, FH Policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

Ineligible Housing [FR Notice 6/18/14]

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, FH Policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

HQS Pre-Inspections

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of

the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

FH Policy

To expedite the leasing process, the PHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspection.

27.3.6 PORTABILITY

[FR Notice 9/27/21 and Notice PIH 2011-53]

General Requirements

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Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location.

VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability within the Initial VAMC or DSP's Catchment Area

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide

the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.

If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.

- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMS or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeing a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

27.3.7 TERMINATION OF ASSISTANCE [FR NOTICE 9/27/21]

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

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VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

VAWA [FR Notice 9/27/21]

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

27.3.8 PROJECT-BASING VASH VOUCHERS

General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]

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PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available In

addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program with the exception of the policies listed below.

Failure to Participate in Case Management [FR Notice 9/27/21]

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

FH Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the PHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property

Moves [HUD-VASH Qs and As, FR Notice 9/27/21]

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if not VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

27.4 PART IV: MAINSTREAM VOUCHER PROGRAM

27.4.1 PROGRAM OVERVIEW [NOTICE PIH 2020-01]

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable

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Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

27.4.2 ELIGIBLE POPULATION [NOTICE PIH 2020-01 AND NOTICE PIH 2020-22]

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

27.4.3 PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

FH Policy

The PHA will implement a Mainstream program, in partnership (informal) with FMCO.

27.4.4 WAITING LIST ADMINISTRATION

General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

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PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Selection from the Interest List for Admission chapter, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

27.4.5 PORTABILITY [NOTICE PIH 2020-01 AND MAINSTREAM VOUCHER BASICS WEBINAR, 10/15/20]

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
 - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
 - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

27.4.6 PROJECT-BASING MAINSTREAM VOUCHERS [FY19 MAINSTREAM VOUCHER NOFA Q&A]

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation.

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27.5 PART IV: NON-ELDERLY DISABLED (NED) VOUCHERS

27.5.1 PROGRAM OVERVIEW [NOTICE PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

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Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- Category 1 vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- Category 2 vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV

waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.

- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA's HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.
- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream) vouchers** enable non-elderly disabled families on the PHA's waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA's voucher waiting list.

27.5.2 ELIGIBLE POPULATION

General Requirements [Notice PIH 2013-19]

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

The PHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

NED Category 2 [Notice PIH 2013-19 and NED Category 2 FAQs]

In addition to being eligible for the PHA's regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family's head, spouse, cohead, or sole

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member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living)

The PHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

27.5.3 WAITING LIST

General Requirements [Notice PIH 2013-19]

Families must be selected for NED vouchers from the PHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 4.

Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served. Further, the PHA may not skip over NED-eligible families on the waiting list because the PHA is serving the required number of NED families.

NED Category 2 Referrals [NED Category 2 FAQs]

For NED Category 2 families, the partnering agency may make referrals of eligible families to the PHA for placement on the waiting list. The PHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, the PHA does not need to establish a preference in order to serve these families ahead of other families on the PHA's waiting list.

PHAs must accept applications from people living outside their jurisdictions or from people being referred from other Medicaid or MFP service agencies in their state.

If the PHA's waiting list is closed, the PHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, the PHA must ensure that individuals living in eligible institutions are aware when the PHA opens its waiting list by

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reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

Reissuance of Turnover Vouchers [Notice PIH 2013-19]

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of

Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

27.5.4 LEASE UP [NOTICE PIH 2013-19]

Briefings

In addition to providing families with a disabled person a list of accessible units known to the PHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

In addition to providing families with a disabled person a list of accessible units known to the PHA, the PHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, the PHA will include this information in the briefing packet.

The PHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

Voucher Term

While the PHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

FH Policy

All NED vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

All other PHA policies on extensions and suspension of vouchers will apply.

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Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]

In general, a PHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, the PHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by the PHA to the owner, and as long as the person does not need continual medical or nursing care.

27.5.5 PORTABILITY [NED CATEGORY 2 FAQs]

NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to NED families. However, the PHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

FH Policy

If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

27.6 PART IV: 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.

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CHAPTER 28: VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION ACT OF 2022 (VAWA 2022)

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28.1 INTRODUCTION

The Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022) is a federal law that protects individuals who are survivors of domestic violence, dating violence, sexual assault, and stalking regardless of sex, sexual orientation, or gender identity. VAWA includes protections for survivors who are applying for or residing in covered housing programs.

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28.1.1 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 survivors;
- creating long-term housing solutions for survivors;
- building collaborations among survivor 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.

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The policy will assist FH 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 FH's "Admission and Continuing Occupancy Policy", and "Housing Choice Voucher Program Administrative Plan" and applies to all PHA housing programs.

28.1.2 DEFINITIONS

The definitions in this Section apply only to this policy. For the full list of terms defined in the VAWA Final Rule see 24 CFR 5.2003

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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.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such

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that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

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.

Covered housing provider: refers to the individual or entity under a covered housing program and as defined by each program in its regulations, that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

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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 committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who:

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- A. is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- B. is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- C. shares a child in common with the victim; or
- D. commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction."

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Economic Abuse: In the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—(A) restrict a person's access to money, assets, credit, or financial information; (B) unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or (C) exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or

failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

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.

Technological Abuse: An act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

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.

28.1.3 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.

28.1.4 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 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.

28.1.5 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.

28.1.6 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.

28.1.7 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 or assistance.

An incident or incidents of actual or threatened domestic violence, dating violence, stalking, or survivors 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

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if the tenant or an affiliated individual of the tenant's family is the survivor of that domestic violence, dating violence or stalking.

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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 survivor 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.

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28.1.8 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 survivor's unit; (e) other reasonable measures.

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28.1.9 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 include but is not limited to unreported income; unauthorized household members; and/or ongoing violations of program Family Obligations.

28.1.10 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.

28.1.11 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.

28.1.12 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 survivors. PHA shall also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to survivors, to help survivors obtain or maintain housing or to prevent the abuse or to enhance the safety of survivors.

28.1.13 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 FH Policy, this Policy will control.

28.2 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 survivor 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.

28.3 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, FHs 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 FH receives a self-petition (INS Form I-360 or I-130) or INS Form 797, FH 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 FH receives a self-petition or INS Form 797 Notice of Action, FH will initiate verification in the SAVE System
- F. Final determination from the SAVE System. FH 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 FH 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, FH 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.

CHAPTER 29: EMERGENCY HOUSING VOUCHERS (EHV)

29.1 INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

29.1 PART 1: FUNDING

29.1.1 FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

29.1.2 HOUSING ASSISTANCE PAYMENTS (HAP) FUNDING

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHV on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHV are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

29.1.3 ADMINISTRATIVE FEE AND FUNDING

The following four types of fees and funding are allocated as part of the EHV program:

Preliminary fees support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:

- \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
- This fee may be used for any eligible administrative expenses related to EHV.
- The fee may also be used to pay for any eligible activities under EHV service fees (I.B).

Placement fees/expedited issuance reporting fees will support initial lease-up costs and the added cost and effort required to expedite leasing of EHV:

- \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
- Placement fees:
 - \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
 - \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
 - HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
 - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.

Ongoing administrative fees, which are calculated in the same way as the standard HCV program:

- PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
- Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.

Services fees, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (I.B):

- The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
- The amount allocated is \$3,500 for each EHV allocated.

29.1.4 SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

FH Policy

The eligible uses for service fees may include the following. Said services will be provided by Fresno Madera Continuum of Care partnering agencies.

Housing search assistance, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and PHA forms, and helping to expedite the EHV leasing process for the family.

Application fees/non-refundable administrative or processing fees/refundable application deposit assistance. The PHA may choose to assist the family with some or all these expenses.

Security deposit assistance. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The PHA may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the PHA will require documentation that the family paid the security deposit.

Utility deposit assistance/utility arrears. The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the

lease. The PHA may pay the utility deposit assistance directly to the utility company or may pay the assistance to the family. If paid to the family, the PHA will require documentation the family paid the utility deposit. The PHA will require the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the PHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

Owner recruitment and outreach for EHV's. The PHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

Owner incentive and/or retention payments. The PHA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

Moving expenses (including move-in fees and deposits). The PHA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The PHA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the PHA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

Tenant-readiness services. The PHA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

Essential household items. The PHA may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

Renter's insurance if required by the lease. The PHA may choose to assist the family with some or all this cost.

Any services fee assistance that is returned to the PHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA's EHV program ends must be remitted to HUD.

29.2 PART II: PARTNERING AGENCIES

29.2.1 CONTINUUM OF CARE (COC)

PHAs that accept an allocation of EHV are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV.

FH Policy

The PHA has entered into an MOU with the Fresno Madera Continuum of Care (FMCoC) agency.

29.2.2 OTHER PARTNERING ORGANIZATIONS

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

FH Policy

FH will partner with the member agencies of the Fresno Madera Continuum of Care; a consortium of organizations dedicated to service provision to those experiencing homelessness in Fresno and Madera Counties. Such organizations include Victim Service Providers, City/County government, mental health agencies, hospitals, public housing authorities and persons formerly experiencing homelessness.

29.2.3 REFERRALS

FMCoC Agency Referrals

The primary responsibility of the FMCoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the FMCoC for initial intake, assessment, and possible referral for EHV assistance. Partner FMCoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV. The FMCoC must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

FH Policy

The FMCoC must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the PHA. The FMCoC agency must certify that the EHV applicants they refer to the PHA meet at least one of the four EHV

eligibility criteria. The PHA will maintain a copy of the referral or certification from the FMCoC agency in the participant's file along with other eligibility paperwork. As part of the MOU, the PHA and FMCoC agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The FMCoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner. For the Fresno Madera Continuum of Care, the Community Matcher or the Community Coordinator will be responsible for transmitting referrals. For FH, the Resident Services Coordinator will be responsible for receiving referral from the FMCoC.

The PHA liaison responsible for acceptance of referrals will contact the FMCoC agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. The FMCoC agency liaison will provide the PHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

29.2.4 OFFERS OF ASSISTANCE WITH FMCoC REFERRAL

The PHA may make an EHV available without a referral from the FMCoC organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan.

The PHA must also take direct referrals from outside the FMCoC if:

- The FMCoC does not have a sufficient number of eligible families to refer to the PHA; or
- The FMCoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the FMCoC agency (or the PHA and FMCoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

29.3 PART III: WAITING LIST MANAGEMENT

29.3.1 HCV WAITING LIST

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 3 does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

FH Policy

The PHA will post information about the EHV program for families on the PHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which EHV's are limited
- Clearly state that the availability of these EHV's is managed through a direct referral process
- Advise the family to contact the FMCoC if the family believes they may be eligible for EHV assistance

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

29.3.2 EHV WAITING LIST

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the FMCoC or partnering agency exceeds the EHV's available, the PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 2 regarding opening and closing the HCV waiting list. The PHA will work directly with the FMCoC to manage the number of referrals and the size of the EHV waiting list.

29.4 PREFERENCES

29.4.1 HCV WAITING LIST PREFERENCES

If local preferences are established by the PHA for HCV, they do not apply to EHV's. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHV's in accordance with Notice PIH 2021-15.

FH Policy

The PHA does not offer either a homeless or a VAWA preference for the HCV waiting list.

29.4.2 EHV WAITING LIST PREFERENCES

With the exception of a residency preference, the PHA may choose, in coordination with the FMCoC to establish separate local preferences for EHV's. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

FH Policy

No local preferences have been established for the EHV waiting list.

29.5 PART IV: FAMILY ELIGIBILITY

29.5.1 OVERVIEW

The FMCoC agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

29.5.2 REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the FMCoC agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

29.5.3 PHA SCREENING

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 4 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 4 in doing so.

29.5.4 MANDATORY DENIALS

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

FH Policy

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

29.5.5 PERMISSIVE DENIAL

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its FMCoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the FMCoC's recommendations into consideration.

FH Policy

FH will not adopt any permissive prohibitions for the EHV program.

In compliance with PIH 2021-15, the PHA also will not deny an EHV applicant admission regardless of whether:

- Any member of the family has been evicted from federally assisted housing in the last five years;
- A PHA has ever terminated assistance under the program for any member of the family;
- The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- 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;
- The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;

- The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3);
- The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

29.6 INCOME VERIFICATION AT ADMISSION

29.6.1 SELF-CERTIFICATION AT ADMISSION

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Chapter 7.3.1 does not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

FH Policy

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 15. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 18. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 18.

29.6.2 RECENTLY CONDUCTED INCOME DETERMINATIONS

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

FH Policy

The PHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the PHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 12.

29.6.3 EIV INCOME VALIDATION

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 15.

29.6.4 SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

FH Policy

The PHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the

family or confirmation from the FMCoC agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 15.

29.6.5 AGE AND DISABILITY VERIFICATION

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

FH Policy

The PHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 15.

29.6.6 INCOME TARGETING

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and FH Policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

FH Policy

The PHA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

29.7 PART V: HOUSING SEARCH AND LEASING

29.7.1 INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined will apply.

FH Policy

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

29.7.2 HOUSING SEARCH ASSISTANCE

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the FMCoC agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family

FH Policy

As identified in the MOU between the PHA and CoC, the following housing search assistance will be provided to each EHV family:

The PHA will:

- Conduct owner outreach
- Provide directions to potential units as part of the EHV briefing packet
- Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter
- At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date
- Assign a dedicated landlord liaison for EHV voucher families

The FMCoC will:

- Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods
- Provide transportation assistance to potential units
- Assist the family with the completion of rental applications and PHA forms

29.7.3 HQS PRE-INSPECTIONS

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

FH Policy

To expedite the leasing process, the PHA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspection's.

29.7.4 INITIAL LEASE TERM

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the FH Policy in Chapter 9.9, Term of Assisted Tenancy.

29.7.5 PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 13 generally apply to EHV's. Exceptions are addressed below.

29.7.6 NONRESIDENT APPLICANTS

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of FH Policy in Chapter 13.7.1.

29.7.7 BILLING AND ABSORPTION

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV's under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV's under its own ACC:
 - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
 - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.

- Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

29.7.8 FAMILY BRIEFING

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

FH Policy

In addition to following FH Policy on briefings in Chapter 8, as part of the briefing packet for EHV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan in Chapter 1.15.

29.7.9 COORDINATION OF SERVICES

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

FH Policy

For EHV families who are exercising portability, the PHA contacts the receiving PHA in accordance with Chapter 13. Preapproval Contact with Receiving PHA, the PHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

29.7.10 SERVICES FEE

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

29.7.11 PLACEMENT FEE/ISSUANCE REPORTING FEE

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

29.8 PAYMENT STANDARDS

29.8.1 PAYMENT STANDARD SCHEDULE

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
 - The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

FH Policy

Pending

29.8.2 RENT REASONABLENESS

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

29.8.3 INCREASES IN PAYMENT STANDARDS

The requirement that the PHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

FH Policy

The PHA may apply increased payment standards as stated above based on available budget authority.

29.8.4 TERMINATION OF VOUCHERS

After September 30, 2023, a PHA may not reissue EHV when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV to cease leasing any unleased EHV if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

29.9 PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV

HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV in accordance with the HCV program requirements at 24 CFR 982.158.

APPENDIX A

FRESNO HOUSING EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Emergency Transfers

Fresno Housing (FH) 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 FH 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 FH 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 FH 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

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.

plan published by the U.S. Department of Housing and Urban Development (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 FH'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 FH of the need to request the emergency transfer by completing the Emergency Transfer Request Form (HUD Form 5383). FH 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 FH 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 FH 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 FH 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 a 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 FH 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.

FH will provide reasonable accommodations to this policy for individuals with disabilities.

Emergency Transfer Timing and Availability

FH cannot guarantee that a transfer request will be approved or how long it will take to process a VAWA emergency transfer request. FH 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.

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. FH may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If FH has no safe and available units for which a tenant who needs an emergency is eligible, FH 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, FH 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 FH's Affordable Housing program who request and are approved for a VAWA emergency transfer will be processed for the transfer in accordance with FH'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 26.

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

FH will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives FH 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 FH responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

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) _____

APPENDIX B

LANGUAGE ASSISTANCE PLAN

INTRODUCTION AND PURPOSE

Fresno Housing is committed to its obligations under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000(d) and executive Order 13166. These obligations include ensuring meaningful access to Fresno Housing's programs and services to all eligible persons, including those who have limited English proficiency (LEP) because of their national origin. The term LEP refers to individuals who have a limited ability to read, write, or understand English well or at all. To ensure meaningful access, Fresno Housing has analyzed its operations and the populations it serves, and has developed this Language Assistance Plan (LAP). This plan details the steps Fresno Housing has taken and will continue to take to satisfy its obligation to provide the greatest degree of meaningful access to its programs and services by persons who have limited English proficiency.

ANALYSIS OF NEED

Based on 2015 American Community Survey 1-Year data estimates (ACS), 45% of Fresno County residents speak a language other than English, of which Spanish (77%) and Hmong (6%) are the most predominant and could be expected to participate in Fresno Housing services and programs. Among the Spanish or Spanish Creole speaking population of Fresno County, ACS data indicate that approximately 40% (123,846 people) speak English less than very well.

Among the Hmong speaking population, ACS data indicate that approximately 41% (9,977 people) speak English less than very well. Fresno Housing has determined that a broad array of language assistance services should be provided in Spanish and Hmong.

FOUR FACTOR ANALYSIS

As noted above, Fresno Housing has determined that it serves a significant number of persons with limited English proficiency whose first language is either Spanish or Hmong. These persons can be expected to come into contact with Fresno Housing on regular events, such as 1) application; 2) lease/ Move In; 3) recertification; 4) termination of benefits. Each of these events is vital to the provision and maintenance of housing resources, clearly an important service of Fresno Housing. Fresno Housing may have multilingual employees who are available to provide interpretation services, and has the resources to provide written translation of certain vital documents into both Spanish and Hmong.

SPECIFICS OF LANGUAGE ASSISTANCE PROVIDED

Written Translation

Fresno Housing has determined that the following documents are vital to the operation of each of the programs listed below. These documents will be professionally translated and made available in both Spanish and Hmong.

1. Conventional Low-Income Public Housing Program

- Application
 - Lease
 - Lease termination including legal notices
2. Multifamily Affordable Housing Program, i.e. Project Based Rental Assistance (PBRA)
 - Application
 - Lease
 - Lease termination including legal notices
 3. Housing Choice Voucher Program
 - Application
 - Lease Termination
 4. Rural Development Farm Labor Housing
 - Application
 - Lease
 - Grievance Procedure

Oral Translation

Fresno Housing staff members may be available to provide oral interpretation of everyday communications with persons who have limited English proficiency and whose first language is Spanish or Hmong. Additionally, Fresno Housing has contracted with Language Line Services, a commercial interpretation service that offers oral interpretation in more than 150 languages, and is available during all business hours. Fresno Housing has posted in relevant locations notices of availability of the Language Line Services – at no cost to the user – for business conducted with Fresno Housing.

Monitoring and Update of Plan

All staff members expected to interact with the public have been provided with guidance on the protocol in the event any person needs language assistance under this plan. This guidance includes a “quick reference guide” for Language Line Services, as well as an identification of those staff members who are fluent in languages other than English.

Fresno Housing will consider conducting a Customer Service Survey. The intent of the survey will be to help Fresno Housing determine if the client’s needs for translating information and documents are being met. Fresno Housing will reevaluate its language assistance plan on a yearly basis to determine if 1) the population of persons with limited English proficiency has changed such that the addition or exclusion of written translations in other languages is required; and 2) the language assistance provided continues to create meaningful access to Fresno Housing’s services and programs

APPENDIX C: PBV PROJECTS

Acronyms:

AHP

Affordable Housing Program

DBH

Department of Behavioral Health

MHSA

Mental Health Services Act

MHP

Multi Housing Program

SJVV

San Joaquin Valley Veterans

SMI

Severe Mental Illness

SHP

Supportive Housing Program

VHHP

Veteran Homeless Housing Program

Definitions:

At Risk of Chronically Homeless. Left an institution (i.e.: jail/prison, hospital, long-term substance use rehab and was homeless before entering the institution and is homeless or chronically homeless)

Chronically Homeless. Living on the street, park, car, abandoned building for one year or more AND has a disability.

Homeless. Living on the street, park, car, abandoned building or shelter.

The Monarch @ Chinatown • 1101 F Street, Fresno CA

Number of Units:	57 units with 13 PBV units
Housing	PBV-RAD, Tax Credit
Type/Programs:	
Owned by:	Doragon @ Chinatown, LP
Order of Selection:	Lottery
Criteria for this Site:	No Specified Criteria
Preferences:	Residency, Veterans & Disabled/Elderly

Glenn & Shaw Project (Holdings) • Address

Number of Units:	42 PBV units
Housing	PBV
Type/Programs:	
Owned by:	
Order of Selection:	
Criteria for this Site:	
Preferences:	

Hotel Fresno • 1257 Broadway Street, Fresno CA

Number of Units:	79 units with 19 PBV
Housing	PBV
Type/Programs:	
Owned by:	
Order of Selection:	
Criteria for this Site:	
Preferences:	

Pacific Gardens • 5161 E Kings Canyon Road, Fresno CA

Number of Units:	22 PBV units
Housing	PBV-RAD, Tax Credit
Type/Programs:	
Owned by:	Pacific Gardens, LP
Order of Selection:	Lottery
Criteria for this Site:	No Specified Criteria
Preferences:	Residency, Veterans & Disabled/Elderly

Parc Grove Commons II, LP • 2674 E Clinton, Fresno CA

Number of Units:	72 PBV units
Housing Type/Programs:	PBV-RAD, Tax Credit
Owned by:	Parc Grove Commons II Limited Partnership
Order of Selection:	Lottery
Criteria for this Site:	No Specified Criteria
Preferences:	Residency, Veterans & Disabled/Elderly

Parc Grove Commons III, Vets • 2720 E Clinton, Fresno CA

Number of Units:	39 PBV units
Housing Type/Programs:	PBV, Tax Credit, VHHP
Owned by:	Parc Grove Commons III, Limited Partnership
Order of Selection:	Referral
Criteria for this Site:	Homeless Veterans
Preferences:	Referral received by SJVV

Parc Grove Commons NW • 2674 E Clinton, Fresno CA

Number of Units:	50 PBV units
Housing	PBV, Tax Credit
Type/Programs:	
Owned by:	Parc Grove Commons Northwest, LP
Order of Selection:	Lottery
Criteria for this Site:	Same as HCV
Preferences:	Residency, Veterans & Disabled/Elderly

Renaissance Alta Monte • 205 N Blackstone, Fresno CA

Number of Units:	30 total units, which include: 29 PBV, 29 MHSA, 27 SHP, 27 AHP
Housing	PBV, Tax Credit, Permanent Supportive Housing
Type/Programs:	
Owned by:	Fresno Renaissance at Alta Monte, LP
Order of Selection:	Referral
Criteria for this Site:	Chronically Homeless with SMI, receiving services from DBH or contracted provider
Preferences:	Referral from DBH

Renaissance Santa Clara • 1553 Santa Clara Street, Fresno CA

Number of Units:	70 total units, which include: 69 PBV units, 25 MHSA units, 20 SHP units, 15 HOME units Tax Credit
Housing Type/Programs:	PBV, Tax Credit, Permanent Supportive Housing
Owned by:	Fresno Renaissance at Santa Clara, LP
Order of Selection:	Referral
Criteria for this Site:	• At Risk of Homelessness with SMI, receiving services from DBH or contracted provider • Homeless with a physical or mental disability • Homeless with a disability • Homeless • At or below 30% AMI • At or below 40% AMI
Preferences:	Referral received by DBH

Renaissance Trinity • 524 S Trinity No 101, Fresno CA

Number of Units:	20 PBV units
Housing	PBV, Tax Credit, Permanent Supportive Housing
Type/Programs:	
Owned by:	Fresno Renaissance at Trinity, LP
Order of Selection:	Referral
Criteria for this Site:	• Chronically homeless with SMI, receiving services from DBH or contracted provider • Chronically Homeless with a physical or mental disability
Preferences:	Referral from DBH

The Arthur @ Blackstone

Number of Units:	41 units with 40 PBV units
Housing	PBV, Tax Credit, Transitional Youth Housing
Type/Programs:	
Owned by:	
Order of Selection:	
Criteria for this Site:	Special Needs
Preferences:	

Barstow Commons/Alegre Commons • 130 W. Barstow Ave, Fresno CA

Number of Units:	42 units with 41 PBV units
Housing Type/Programs:	PBV, Tax Credit, Permanent Supportive Housing, HOME
Owned by:	Villages at Barstow, LP
Order of Selection:	Referral
Criteria for this Site:	• Homeless • Chronically Homeless • At Risk of Chronically Homeless • And/or for individuals who have a diagnosis of Severe Mental Illness
Preferences:	Referral

The Villages at Paragon • 4041 Plaza Drive West, Fresno CA

Number of Units:	28 units with 27 PBV units
Housing Type/Programs:	PBV, Tax Credit, Permanent Supportive Housing
Owned by:	The Villages at Paragon, LP
Order of Selection:	Referral
Criteria for this Site:	• Homeless • Chronically Homeless • At Risk of Chronically Homeless • And/or for individuals who have a diagnosis of Severe Mental Illness
Preferences:	Referral

The Villages at Broadway • 1828 Broadway, Fresno CA

Number of Units:	26 units with 25 PBV units
Housing	PBV, Tax Credit, Permanent Supportive Housing
Type/Programs:	
Owned by:	The Villages at Broadway, LP
Order of Selection:	Referral
Criteria for this Site:	• Homeless • Chronically Homeless • At Risk of Chronically Homeless: • And/or for individuals who have a diagnosis of Severe Mental Illness
Preferences:	Referral

APPENDIX D: ASSET AND INCOME TABLES

EXCLUDED ASSETS TABLE 25 CFR 5.603(B) "NET FAMILY ASSETS"

The following assets are excluded under HOTMA.

If the family owns an excluded asset, its value does not count toward the restriction due to net family assets. Most of these exclusions are new.

Excluded Assets 25 CFR 5.603(b) "Net Family Assets"			
Category	Excluded Asset	Example(s)	Notes
Personal property	Necessary items of personal property	Medical devices, vehicle for commute	Determining what is a "necessary item" for personal property is a highly fact-specific determination. Additional guidance is forthcoming from HUD.
Personal property	Non-necessary items of personal property if the combined total value does not exceed \$50,000*	Vintage baseball cards, recreational boat, coin collection, art so long as the total value is under the limit	This matches the value of assets that can be self-certified by the family.
Savings account	Retirement account recognized by IRS	IRA, 401(k), 401(b) and retirement plans for self-employed individuals	
Real property	Real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located	Property subject to a lawsuit may be legally restricted from sale.	Such property does not count against the dollar amount limit or the real property limitation
Cash	Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member, for an incident resulting in a disability	A drunk driver injures a family member, who then has a disability. The family sues, and the driver's insurance pays the family.	
Savings account	The value of certain education or disability support savings accounts	Under Internal Revenue Code sections 529, 529A, 530, "baby bond" accounts	Coverdell accounts, tuition programs, any "baby bond" account created, authorized, or funded by Federal, state, or local government
Real property	Interest in Indian trust land	Family has interest in land held in trust by Bureau of Indian Affairs	Existing exclusion
Real property	Equity in a manufactured home where the family receives assistance under 24 CFR 982	HCV Manufactured Home Space Rental participants	
Real property	Equity in property where the family receives assistance under 24 CFR 982	HCV homeownership participant	For real property other than manufactured homes
Savings account	Family Self-Sufficiency (FSS) accounts	The family does not have access to FSS funds during their participation in the program. Also excluded from income.	
Cash	Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family	Earned Income Tax Credits (EITC)	
Trust Funds	Trust that is not revocable by, or under the control of, any member of the family or household	Non-revocable trust fund; trust fund revocable once minor child reaches age 21	As long as a trust meets this definition, it is not an asset of the family

ANNUAL INCOME EXCLUSIONS TABLE 24 CFR 5.609 (B)

The following sources of income are excluded under HOTMA.
(Table is continued on the following page)

Income Exclusions Table			
Category	Exclusion	CFR	Description
Other	Federally Mandated Income Exclusions	24 CFR 5.609(b)(22)	Amounts that must be excluded by federal statute. HUD will publish a Federal Register notice that includes the qualifying benefits.
Assets	Imputed Income from Assets	24 CFR 5.609(b)(1)	Any imputed return on an asset when net family assets total \$50,000 (adjusted annually) or less and no actual income from the net family assets can be determined.
Non-recurring income	Non-recurring income	24 CFR 5.609(b)(24)	Income that will not be repeated in the coming year based on information provided by the family.
Self-employment	Gross Self-employment Income	24 CFR 5.609(b)(28)	Gross income received through self-employment or operation of a business
Dependents	Minors (children under the age of 18 years)	24 CFR 5.609(b)(3)	All earned income of all children under the age of 18, including foster children.
Dependents	Adoption assistance payments	24 CFR 5.609(b)(15)	Adoption assistance payments for a child in excess of the amount of the dependent deduction.
Students	Earned Income of Dependent Students	24 CFR 5.609(b)(14)	Earned income of dependent full-time students in excess of the amount of the dependent deduction.
Students	Title IV HEA Assistance	24 CFR 5.609(b)(9)(i)	Any assistance that Section 479B of the Higher Education Act (HEA) of 1965, as amended, requires to be excluded from a family's income.
Students	Other Student Financial Assistance	24 CFR 5.609(b)(9)(ii)	Student financial assistance, not excluded under the HEA, for actual covered costs of higher education.
Students	Educational Savings Account	24 CFR 5.609(b)(10)	Income and distributions from any Coverdell educational savings account or of any qualified tuition program under IRS section 530 or any qualified tuition program under section 529.
Baby bonds	Baby bonds	24 CFR 5.609(b)(10)	Income earned by government contributions to, or distributions from, 'baby bond' accounts created, authorized or funded by federal, state or local government.
Foster children / adults	Payments for Foster Children / Adults	24 CFR 5.609(b)(4)	Payments received for the care of foster children or adults, including State kinship, guardianship care payments, or tribal kinship payments.
Foster children / adults	Income of foster children / adults	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603.
Live-in Aide	Income of a Live-in Aide	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult.
People with Disabilities	ABLE accounts	24 CFR 5.609(b)(22)	Will be included in federally mandated excluded amounts. Notice PIH 2019-09/H-2019-06 details when ABLE account income is excluded.
People with Disabilities	State Payments to Allow Individuals with Disabilities to Live at Home	24 CFR 5.609(b)(19)	Payment made by an authorized by a state Medicaid managed care system or other state agency to a family to enable a family member to live in the family's assisted unit.
People with Disabilities	Plan to Attain Self-Sufficiency (PASS)	24 CFR 5.609(b)(12)(i)	Amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).
People with Disabilities	Reimbursements for Health and Medical Care Expenses	24 CFR 5.609(b)(6)	Amounts for, or in reimbursement of, health and medical care expenses for any family member.
Trusts	Trust distributions	24 CFR 5.609(b)(2)	Any distributions of a trust's principal are excluded. PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the expectation of distributions used to pay the health and medical care expenses of a minor.

Income Exclusions Table continued			
Category	Exclusion	CFR	Description
Trusts	Trust distributions	24 CFR 5.609(b)(2)	Any distributions of a trust's principal are excluded. PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the expectation of distributions used to pay the health and medical care expenses of a minor.
Insurance	Insurance payments and settlements for personal or property loss	24 CFR 5.609(b)(5)	Insurance payments and settlements for personal or property loss including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.
Retirement	Retirement plan	24 CFR 5.609(b)(26)	Income received from any account under an IRS-recognized retirement plan. However, periodic payments are income at the time of receipt.
Military	Hostile fire special payment	24 CFR 5.609(b)(11)	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
Veterans	Veterans aid and attendance payments	24 CFR 5.609(b)(17)	Payments related to aid and attendance for veterans under 38 U.S.C. 1521.
Lawsuits	Lawsuit Settlements	24 CFR 5.609(b)(7)	Amounts recovered in a civil action or settlement based on malpractice, negligence and other breach of duty claim resulting in a family member becoming disabled.
Lawsuits	Reparations for Persecution	24 CFR 5.609(b)(13)	Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.
Lawsuits	Tribal Claims Payments	24 CFR 5.609(b)(21)	Payments received by tribal members from claims relating to the mismanagement of assets held in trust by the United States.
Lawsuits	Lawsuits related to civil rights	24 CFR 5.609(b)(25)	Civil rights settlements or judgments, including settlements or judgments for back pay.
Reimbursements	Reimbursements from publicly assisted programs	24 CFR 5.609(b)(12)(ii)	Amounts received by a participant in other publicly assisted programs for or in reimbursement of expenses to allow program participation (e.g., special equipment, clothing, transportation, child care, etc.).
Resident Services Stipend	Resident Services Stipend	24 CFR 5.609(b)(12)(iii)	Resident service stipends of \$200 or less per month for performing a part-time service for the PHA that enhances the quality of life in the development.
Employment training programs	Employment training programs	24 CFR 5.609(b)(12)(iv)	Incremental earnings and benefits from training programs HUD and qualifying employment training programs and training of a family member as resident management staff.
FSS	Family Self Sufficiency Account	24 CFR 5.609(b)(27)	Income earned on amounts placed in a family's FSS account.
Housing gap payments	Housing "gap" payments	24 CFR 5.609(b)(23)	Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized housing unit and another.
Benefits	Deferred Supplemental Security Income, SS income and benefits, or VA disability benefits	24 CFR 5.609(b)(16)	Deferred periodic amounts from: SSI, Supplemental Security Income and benefits or VA disability benefits that are received in a lump sum or prospective monthly amounts.
Property tax rebates	Property Tax Rebates	24 CFR 5.609(b)(18)	Refunds or rebates under state or local law for property taxes paid on the dwelling unit.
Loans	Loan Proceeds	24 CFR 5.609(b)(20)	The net amount disbursed by a lender to a borrower or a third party (e.g., educational institution or car dealership).

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
AIDS	Acquired immune deficiency syndrome
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)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FH	Fresno Housing
FHA	Federal Housing Administration
FHEO	Fair Housing and Equal Opportunity (HUD office of)
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
IVT	Income Validation Tool
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
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
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
UIV	Upfront income verification
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 FH for administration of the program. See §982.152.

Administrative fee reserve (formerly “operating reserve”). Account established by FH 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 FH policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by FH’s board and included as a supporting document to FH 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 FH under which HUD agrees to provide funding for a program under the 1937 Act, and FH 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 FH program, budget authority is the maximum amount that may be paid by HUD to FH over the ACC term of the funding increment.

Building. A building is a structure with a roof and walls that contains one or more dwelling units.

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.

Day Laborer. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

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).

Earned Income. Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

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 FH under FH 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 Adult. A member of the household, but not a member of the family, who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster Child. A member of the household, but not a member of the family, who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

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.

Gender Identity. Actual or perceived gender characteristics

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 FH 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.

Health and Medical Care Expenses. Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Housing assistance payment. The monthly assistance payment by FH, 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 developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA under 24 CFR 5.705(a)(3), standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, domestic partner, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, daughter-in-law, grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin (that is a child of an aunt or uncle).

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 \$50,000.

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 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.

Independent Contractor. An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

Independent Entity. The unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or a HUD-approved entity that is autonomous and recognized under State law as a separate legal entity from the PHA. The entity must not be connected financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.

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 FH 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 FH.

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 FH 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 10% 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.

(5.603 Definitions) Net family assets.

1. Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.
2. In determining net family assets,
PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.
3. Excluded from the calculation of net family assets are:
 - a. The value of necessary items of personal property;
 - b. The combined value of all non- necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);
 - c. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;
 - d. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;
 - e. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability;

- f. The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government.
 - g. Interests in Indian trust land;
 - h. Equity in a manufactured home where the family receives assistance under 24 CFR part 982;
 - i. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982;
 - j. Family Self-Sufficiency Accounts; and
 - k. Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
4. 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 trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

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.

FH Plan. The annual plan and the 5-year plan as adopted by FH and approved by HUD.

FH's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a FH 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 FH program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by FH 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. A single building, multiple continuous buildings, or multiple buildings on continuous parcels of land.

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.

Real Property. As used in this part has the same meaning as that provided under the law of the State in which the property is located.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units

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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.

Request for Tenancy Approval (RFTA). A form (form HUD-52517) submitted by or on behalf of a family to a PHA once the family has identified a unit that it wishes to rent using tenant-based voucher assistance.

Residency Preference. A FH 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.

Seasonal Worker. An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry

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, FH 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.

Small Area Fair Market Rents (SAFMRs or Small Area FMRs). Small Area FMRs are FMRs established for U.S. Postal Service Zip Code areas and are calculated in accordance with 24 CFR 888.113(a) and (b).

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 FH 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 FH 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 FH decides to allow extensions or suspensions of the voucher term, FH administrative plan must describe how FH determines whether to grant extensions or suspensions, and how FH 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-paid utilities. Utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that complies with HQS. The utilities and services may also include those required by HUD through a Federal Register notice after providing opportunity for public comment.

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.

Unearned Income. Any annual income, as calculated under § 5.609, that is not earned income

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 FH 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 FH 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 FH to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for FH 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 FH 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

The key definitions for the Family Unification Program are:

Lack of Adequate Housing is defined as:

- A family or youth is living in substandard or dilapidated housing;
- A family or youth is homeless;
- A family or youth is in imminent danger of losing their housing;
- A family or youth is displaced by domestic violence;
- 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:

- The family or youth has vacated a housing unit because of domestic violence; or
- 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

Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who

- Is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or

- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic 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:

1. Lacks a fixed, regular, and adequate nighttime residence; and
2. Has a primary nighttime residence that is:
 - A. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
 - B. 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:

1. 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
2. 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.

3. 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:

1. Is dilapidated;
2. Does not have operable indoor plumbing;
3. Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth;
4. Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth;
5. Does not have electricity, or has inadequate or unsafe electrical service;
6. Does not have a safe or adequate source of heat;
7. Should, but does not, have a kitchen; or
8. Has been declared unfit for habitation by an agency or unit of government.