

# **HOUSING AUTHORITY OF THE COUNTY OF SAN DIEGO**

## **Section 8 Housing Choice Voucher Program**

**July 2019**



## **Administrative Plan**

**COUNTY OF SAN DIEGO**

**HEALTH AND HUMAN SERVICES AGENCY**

**HOUSING AUTHORITY OF THE COUNTY OF SAN DIEGO**  
**Administrative Plan**

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## STATEMENT OF POLICIES AND OBJECTIVES

**T**he Section 8 Program was enacted as part of the Housing and Community Development Act (Act) of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, are described as implemented throughout this Administrative Plan. The Section 8 Rental Assistance Programs are federally funded and administered for the jurisdiction of the County of San Diego by the Housing Authority of the County of San Diego (HACSD). The current program that provides tenant-based assistance is the Housing Choice Voucher Program.

Administration of the Section 8 Program and the functions and responsibilities of the housing staff shall be in compliance with the County of San Diego personnel policy and the Department of Housing and Urban Development's (HUD) Section 8 regulations, as well as all federal, state, and local fair housing laws and regulations.

### JURISDICTION

The jurisdiction of the HACSD includes the cities of Chula Vista, Coronado, Del Mar, El Cajon, Escondido, Imperial Beach, La Mesa, Lemon Grove, Poway, San Marcos, Santee, Solana Beach, Vista and the unincorporated county areas.

### MISSION STATEMENT

The HACSD Mission Statement:

*Promoting safe, affordable housing opportunities and improved communities in the San Diego region.*

HUD Mission Statement:

*To create strong, sustainable, inclusive communities and quality affordable homes for all.*

## **OTHER RENTAL ASSISTANCE PROGRAMS**

In addition to the Housing Choice Voucher Rental Assistance Program, the HACSD operates the following housing assistance programs:

- Moderate Rehabilitation Program
- Mobile Home Demonstration Program
- Preservation/Enhanced Voucher Program
- Public Housing
- Housing Opportunities for Persons with AIDS (HOPWA)
- Continuum of Care Program (previously known as Shelter Plus Care)
- HOME Tenant-Based Rental Assistance Programs
- Veterans Affairs Supportive Housing (VASH)

These programs are administered in conformance with Section 8 rules and regulations, unless indicated otherwise in the special program plans or the specific program regulations and guidelines published by HUD. The HACSD Administrative Plan policies and procedures constitute the policies and practices for these special housing assistance programs.

## **CORE VALUES AND ETHICAL STANDARDS**

All officers or employees of the HACSD will comply with the Code of Ethics of the County of San Diego, COSD Health and Human Services Agency Code of Conduct, as well as all standards mandated under the Housing Choice Voucher Program. This includes compliance with the conflict of interest requirements of the Housing Choice Voucher Program under 24 CFR 982.161. The conflict of interest provision prohibits the Public Housing Agency (PHA), or any of its contractors or subcontractors, from entering into any contract or arrangement in connection with the tenant-based programs in which any of the following classes or persons have any interest, direct or indirect, during tenure or for one year thereafter. The classes or persons include: (1) any present or former member or officer of the PHA (except a participant commissioner); (2) any employee of the PHA, or any contractor or subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs; (3) any public official, member of a governing body, or State or local

legislator, who exercises functions or responsibilities with respect to the programs; and, (4) any member of the Congress of the United States. Any members of the classes described in this section must disclose their interest or prospective interest to the PHA and HUD. The HUD field office may waive for good cause the conflict of interest prohibition under this section.

All HACSD officers, employees, contractors, subcontractors or agents will comply with all requirements that prohibit the solicitation or acceptance of gifts or gratuities, in excess of a nominal value.

All HACSD officers, employees, contractors, subcontractors or agents will conduct business with integrity and in an honest and professional manner.

Any violations of code of ethics, core values and ethical standards policies will result in disciplinary action ranging from letter(s) of warning to termination of employment and/or contract. Opportunity may be offered, on a case-by-case basis, to correct a conflict of interest. Code of ethics, core values and ethical standards policies will be communicated to the above groups upon initial employment, prior to execution of a contract and at least annually.

## **LOCAL GOALS**

- *To expand the supply of assisted housing and support the efforts of housing development agencies, as well as to increase the inventory of affordable housing for families in need, as identified in local consolidated plans.*
- *To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.*
- *To encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational and other human service needs.*
- *To create positive public awareness and expand the level of family, owner and community support in accomplishing the HACSD's mission.*
- *To attain and maintain a high level of standards and professionalism in the day-to-day management of all program components.*
- *To administer an efficient, high-performing agency through continuous improvement of the HACSD's support systems and commitment to its employees.*
- *To provide decent, safe and sanitary housing for low, very low, and extremely-low income families while maintaining rent payments at an affordable level. To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.*

- *To promote fair housing and the opportunity for low- and 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 promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.*

## **PURPOSE OF THE PLAN**

[24 CFR 982.54]

The purpose of this Administrative Plan (Plan) is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives outlined in the HACSD's agency plan. All pre-merger regular tenancy contracts, Housing Choice Voucher contracts and over fair market rent tenancy contracts have been transitioned to the Housing Choice Voucher Program as of October 1, 1999. This Plan is a supporting document to the HACSD agency plan, and is available for public review as required by CFR 24 Part 903.

The HACSD is responsible for complying with all changes in HUD regulations pertaining to the HUD programs it administers. If such changes conflict with this Plan, HUD regulations will have precedence. The HACSD Board of Commissioners must approve the original Plan and any significant changes. The pertinent sections must be included in the agency plan with a copy provided to HUD.

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR 984: Family Self-Sufficiency Program
- 24 CFR 985: Section 8 Management Assessment Program (SEMAP)

Local rules incorporated in this Plan are intended to promote local housing objectives consistent with the intent of federal housing legislation.

## **ADMINISTRATIVE ERROR**

If the HACSD discovers an administrative error that resulted in an underpayment of housing assistance payments, it will correct the error back to the previous action taken and issue a payment to the owner or participant, if appropriate. If the HACSD discovers an administrative error resulted in an overpayment of assistance, the error will be corrected with a 30-day advance notice.

## **ADMINISTRATIVE FEE RESERVE**

[24 CFR 982.155]

The HACSD must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD.

If the HACSD has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve and may direct the HACSD to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD may also prohibit the use of funds for certain purposes.

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures from the administrative fee reserve will not exceed \$100,000 per occurrence without prior approval of the HACSD Board of Commissioners.

## **RULES AND REGULATIONS**

[24 CFR 982.52]

This Plan defines the HACSD's local policies for operation of the housing programs in the context of federal laws and regulations. Generally, not fully addressed in this document are Section 8 issues governed by federal regulations, HUD memos, notices, guidelines, or other applicable law. If any issue is not found in this plan or in the resources named above, the HACSD may address the issue with a policy notice to HACSD staff and post on the HACSD website, unless the new policy is a significant program change as defined in the Agency Plan. The policies in this Plan have been designed to ensure compliance with the consolidated annual contributions contract (ACC) and all HUD-approved applications for program funding.

## **TERMINOLOGY**

The Housing Authority of the County of San Diego is referred to as the "HACSD", "PHA" or "Housing Authority" throughout this document.

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

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

"Landlord" and "owner" are used interchangeably.

"Non-citizen Rule" refers to the regulation effective June 19, 1995, restricting assistance to U.S. citizens and eligible immigrants.

"HQS" means the Housing Quality Standards required by regulations as enhanced by the PHA.

"Failure to Provide" refers to all requirements of the Family Obligations of the program as outlined elsewhere in the Plan.

"Merger" date refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

## **FAIR HOUSING POLICY**

The Housing Authority will fully comply with all federal, state and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment.

The HACSD will not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 programs on the basis of race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis.

The PHA shall administer the program in compliance with the Violence Against Women Act (VAWA) and Department of Justice Reauthorization Act of 2013 (Pub. L. 109-162).

To further the HACSD commitment to full compliance with applicable civil rights laws, at the family briefing the HACSD will provide federal/state/local information regarding unlawful discrimination, and any recourse to those who believe they are victims of a

discriminatory act. All applicable fair housing information and discrimination complaint forms will be included in the voucher holder's briefing packet and will be available upon request.

All HACSD staff members will be required to attend fair housing training. These employees, in the overall commitment to quality customer service, are informed of the importance of affirmatively furthering fair housing, providing equal opportunity to all families and providing reasonable accommodations to persons with disabilities. Fair housing posters may be displayed throughout the Housing Authority office, including in the lobby, interview rooms, and in such a manner as to be readable from a wheelchair.

The equal opportunity logo will be used on all outreach materials. To keep current with new developments, staff will attend local fair housing annual update training sponsored by HUD or other organizations.

No individual with disabilities shall be denied the benefits, excluded from participation in programs, or otherwise be subjected to discrimination because the HACSD's facilities are inaccessible to or unusable by persons with disabilities. The HACSD's obligations regarding accessibility are subject to Title 24, Part 8, sections 8.21(c)(1), 8.24(a), 8.25, and 8.31 of the regulations.

The HACSD is accessible to persons with disabilities. The California Relay Service provides accessibility for the hearing impaired.

## **REASONABLE ACCOMMODATIONS POLICY**

[24 CFR 8.4(b)(i), 8.24 and 8.33; Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

### **DEFINITION OF REASONABLE ACCOMMODATION**

A "reasonable accommodation" is a change, exception, or adjustment to a rule, 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.

When a family member requires an accessible feature(s) or change, exception or adjustment to a rule, policy, practice or service to accommodate a disability, PHAs must provide such feature(s) or modification(s) unless doing so would result in a fundamental alteration in the nature of the program, or an undue financial and administrative burden. In such instance, the HACSD will engage in an interactive process with the family member with the goal of finding a reasonable alternative accommodation that would meet the family member's disability-related needs. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

The HACSD's policies and practices are designed to, upon request, provide reasonable accommodations to persons with disabilities, so they may fully access and utilize the housing program and related services. The availability of reasonable accommodation is made known by including the information on the Housing Authority's forms and letters. This policy will afford persons with disabilities an equal opportunity to obtain the same result, gain the same benefit or reach the same level of achievement as those who do not have disabilities. This policy is applicable to all situations described in this Plan, including when a family initiates contact with the HACSD or when the HACSD initiates contact with a family. This policy is applicable when a family applies for assistance, as well as when the HACSD schedules or reschedules appointments of any kind.

### **REQUEST FOR AN ACCOMMODATION**

A participant with a disability must ask for a specific change to a policy or practice as an accommodation of his or her disability before the HACSD will have an obligation to consider any accommodation. The HACSD will encourage the participant to make the request in writing; however, the HACSD will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

In making the request, the individual should explain what type of accommodation he or she is requesting and, if the need for the accommodation is not readily apparent or not known to the HACSD, explain the relationship between the requested accommodation and his/her disability. A person with a disability need not personally make the reasonable accommodation request; a family member or someone else who is acting on his or her behalf may make the request. An individual making a reasonable accommodation request does not need to use the words "reasonable accommodation." However, the requester must make the request in a manner that a reasonable person would understand it to be a request for an exception, change or adjustment to a rule, policy, practice or service because of a disability.

### **VERIFICATION OF DISABILITY**

Before providing an accommodation, the HACSD must determine that the person meets the definition of a person with a disability and that the accommodation will enhance the participant's access to the HACSD's programs and services.

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

If a participant's disability is obvious or otherwise known to the HACSD, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

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

When verifying a disability, the HACSD will follow the verification policies provided in Chapter 4. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Any individual whose current use of alcohol or drugs (including medical marijuana) prevents the individual from participating in the program or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others is not covered.
- Depending on the individual's circumstances, information verifying that the person requesting the accommodation meets the definition of a disabled person can usually be provided by the individual himself or herself (e.g., proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement by the individual).
- A doctor or other medical professional, a peer support group, a non-medical service agency or a reliable third party, who is in a position to know about the individual's disability, may also provide verification of a disability.
- The HACSD may only request information that is necessary to evaluate the disability-related need for the accommodation. The HACSD may not inquire about the nature or extent of any disability.
- The HACSD will request the verifying party to state whether the accommodation will be needed on a permanent or temporary basis.
- If a reasonable accommodation is approved on a temporary basis, the HACSD will require an annual recertification to verify that the person meets the definition of a person with a disability and that the limitations imposed by the disability continue to require the requested accommodation. If a reasonable accommodation is approved on a permanent basis, an annual recertification of the disability will not be required. A required annual recertification of the disability will be conducted in conjunction with the regularly scheduled annual reexamination of income and family composition in accordance with the policies set forth in Chapter 10.
- Medical records will not be accepted or retained in the participant file.

- PHA staff may not inquire about an individual's specific diagnosis or details of treatment. In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment or the nature or severity of the disability, the PHA will destroy it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received and the name and address of the knowledgeable professional who sent the information. [PIH 2010-26]
- Requests for an extra bedroom for a live-in aide must be supported by verification from a health care provider that documents the medical need for the live-in aide. [PIH 2009-22]
- Requests for an extra bedroom for medical equipment must be supported by verification from a health care provider that documents the need for the extra bedroom. The actual equipment in the extra bedroom should be verified by the HACSD during routinely scheduled inspections of the unit. If the extra bedroom is not being used for the intended purpose, the HACSD must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. The HACSD may take further action, if it believes that any family obligations under 24 CFR Section 982.551 were violated. [Notice PIH-2009-22]

### **APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION**

A PHA must approve a request for an accommodation if the following three conditions are met:

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

The determination of undue financial and administrative burden will be made on a case-by-case basis and will take into consideration various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

After a request for an accommodation is presented, the HACSD will provide a written decision to the person requesting the accommodation within a reasonable time. If the HACSD finds that the requested accommodation would impose an undue

administrative or financial burden or would fundamentally alter the nature of its operations, then it will deny the request and engage in an interactive process with the person with the goal of finding an alternate reasonable accommodation that will effectively meet the person's disability-related needs.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. In addition, a designee may represent the individual with a disability, but only with written permission of the disabled person.

## **LIMITED ENGLISH PROFICIENCY (LEP)**

The HACSD conducted a 2011 survey of its program that indicates the "number or proportion" of its LEP clients at 8% or 840 persons (or households) for all language groups is above the "threshold" of 5%, but below the 1,000 persons, in any language-specific group. The HACSD has low frequency of contact with LEP clients regarding its program. The "nature" of the Section 8 program in providing housing assistance to the needy is "important" enough to have "serious or even life-threatening implications for the LEP individual," which is the very reason the HACSD monitors any "denial or delay of access" to its program and provides language services when requested. The HACSD provides appropriate assistance to its clients at a reasonable expense due to the recruitment of multi-lingual staff and availability of outside resources to provide a mixture of LEP services for interpretation and translation. The HACSD will continue to develop and implement a more accurate system of tracking "proportion" of LEP to the general population on the program, to better anticipate the need of any growing LEP language group. In 2019 the HACSD began to systematically collect the primary languages of applicants and participants. The results will be periodically analyzed to determine if any updates to this section are warranted. Staff are trained in order to be aware of all potential LEP issues.

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

- The availability of local organizations to provide translation services to non-English speaking families.
- Bilingual staff available to provide translation for non-English speaking families.
- The need of clientele for translated documents. Any documents already translated by HUD will be used, as needed.
- Staff may utilize the United Language Group by calling 1-888-362-0614 for translators over the phone. Interpreters may also be requested for in-person appointments.

## **APPLYING FOR ADMISSION**

All persons who wish to apply for any of the HACSD's programs must submit pre-applications in person, by phone, or online, which may be written or verbal.

All pre-applications and applications will be made accessible upon the request from a person with a disability. To provide specific reasonable accommodation to persons with disabilities, upon request, the information may be mailed to the applicant, mailed to the applicant's contact person, completed by a designee or any other specified reasonable accommodation.

The full application is completed in the applicant's own handwriting, unless the applicant is a person with a disability who requests assistance or other accommodation. The HACSD staff may interview applicants to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing or ADA reasonable accommodation may be requested at that time, or mailed to the applicant.

## **MARIJUANA USE**

No person who engages in illegal drug use, including medical and/or recreational marijuana, shall be admitted to the Housing Choice Voucher Program. The use or possession of marijuana is strictly prohibited and will result in termination of participation from the Housing Choice Voucher Program for all participants that engage in the use or possession of marijuana. Participants who were admitted to the program prior to February 1, 2011, who can demonstrate documentary evidence that a valid medical marijuana card was issued to the participant, as allowed for under California state law prior to March 14, 2012, shall not be subject to termination for using or possessing medical marijuana. Acceptable documentary evidence shall be a medical marijuana card with an issuance date showing it was issued prior to March 14, 2012. In the event a medical marijuana card does not have issuance date on the card, the participant must provide a copy of the medical marijuana card and additional written documentation which demonstrates the card was issued prior to March 14, 2012. Nothing in this section shall prohibit termination by a landlord for violating any lease provision, which may include a prohibition of using or possessing marijuana, violating any federal law or creating a nuisance on the rental property.

## **MANAGEMENT ASSESSMENT OBJECTIVES**

The HACSD can demonstrate to HUD auditors that it applies resources in a manner that reflects its commitment to quality and service. The HACSD policies and practices are consistent with the following HUD and SEMAP requirements:

- Selection from the waiting list
- Reasonable rent
- Determination of adjusted income
- Utility allowance schedule
- HQS quality control inspections
- HQS enforcement
- Expanding housing opportunities
- SAFMR/exception rent and payment standards
- Annual reexaminations
- Correct tenant rent calculations
- Pre-contract HQS inspections
- Annual or Biennial HQS inspections
- Lease rate
- Family self-sufficiency enrollment and escrow account balances
- De-concentration of families from areas of high poverty

A Supervisor or other qualified person, other than the person who performed the work, will perform supervisory quality control reviews, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS enforcement
- HQS quality control

The annual sample of files and records is drawn randomly from computer-generated lists or other reports, such as field logs, which leave a clear audit trail.

The SEMAP required minimum sample size is reviewed for all SEMAP indicators that require a random sample.

## **INSUFFICIENT FUNDING**

[24 CFR 982.454]

The regulations allow the HACSD to deny families permission to move and to terminate HAP Contracts if funding under the consolidated ACC is insufficient to support annual program HAP expenses. If the HACSD determines that it has insufficient funding to support its active contracts, it may take any or all of the following actions that it deems appropriate and necessary to reduce its HAP costs:

1. Reduce payment standards, if payment standards exceed 90% of the current SAFMR;
2. Reduce its subsidy standards;

3. Eliminate exceptions to its subsidy standards;
4. Terminate HAP contracts;
5. Deny permission to move to higher cost units;
6. Deny permission to move.

If the HACSD determines that the necessary action to reduce HAP costs within the funding level is to terminate HAP contracts, it may take action to terminate HAP contracts based on one or more of the following criteria:

1. Terminate HAP contracts on units with gross rents that exceed the new payment standards and offer landlords new contracts under the current subsidy standards and payment standards.
2. Terminate HAP contracts for program participants who have violated program requirements as evidenced by repayment agreements or signed documents acknowledging program violations.
3. Terminate HAP contracts for non-disabled, non-elderly, non-veterans and non-active duty military households that have been on the program the longest.
4. Terminate HAP contracts for those participants whose tenant portion is at least 75 percent of the contract rent.
5. Terminate HAP contracts for participants living in units receiving other federal or state housing subsidies including, but not limited to tax credits, Section 236, HOME, Section 202, and Section 221.

## **RECORDS FOR MONITORING PERFORMANCE**

In order to demonstrate compliance with HUD and other pertinent regulations, the HACSD will maintain and retain records, reports and other documentation in accordance with HUD requirements. These records will be maintained in a manner that will allow an auditor, housing professional or other interested party, to follow, monitor and/or assess the HACSD's operational procedures objectively, with accuracy, and in accordance with SEMAP requirements and internal management controls.

In addition to the required SEMAP documentation, the following functions will be monitored by supervisory staff:

- All annual recertifications will be monitored for completion at least 30 days before the re-exam due date.

- All annual inspections will be monitored for completion at least 30 days before the due date or, if an annual inspection was not conducted due to biennial schedule, the file will be monitored to ensure that appropriate notification was given.
- All new applications will be monitored for compliance with the regulations.

## **RECORD KEEPING**

[24 CFR 982.158]

The HACSD must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HACSD must ensure that all applicants and participant files are maintained in a way that protects an individual's privacy rights.

During the term of each assisted lease, and for at least three years thereafter, the HACSD must keep:

- A copy of the executed lease.
- The HAP contract
- The application from the family

The HACSD must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender and disability status data on program applicants and participants
- An application from each ineligible family and notice that the applicant is not eligible
- HUD required reports
- Unit inspection reports
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Accounts and other records supporting PHA budget and financial statements for the program

- Records to document the basis for HACSD determination that rent to owner is reasonable rent (initially and during the term of the HAP contract)
- Other records specified by HUD
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.
- The PHA must keep confidential records of all emergency transfers requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2005(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

All HACSD applicant and participant files and information will be kept in secure locations with access restricted to authorized personnel.

### **CRIMINAL RECORDS**

The HACSD may only disclose criminal conviction records received from a law enforcement agency to officers or employees of the HACSD, or to authorized representatives of the HACSD, who have a job-related need to access the information. [24 CFR 5.903]

The HACSD maintains such criminal records in secure areas that are accessible only to authorized personnel. Staff is instructed to not misuse or improperly disseminate these records, which are destroyed once they are no longer needed [24 CFR 5.905]. This requirement does not apply to information that is public information, or is obtained by the HACSD under 24 CFR 5.905.

### **MEDICAL/DISABILITY RECORDS**

PHAs are not permitted to inquire about the nature or extent of a person's disability or about a person's diagnosis or details of treatment for a disability or medical condition. If the HACSD receives a verification document that provides such information, the HACSD will not place this information in the tenant file; the HACSD will destroy the document.

### **CHILDREN WITH ELEVATED BLOOD LEAD LEVELS**

The PHA has certain reporting requirements, data collection and record-keeping responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance.

The HACSD is required to report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within five business days of being so notified by any other medical health care professional.

### **Data Collection**

At least quarterly, the HACSD must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than six years old with an identified elevated blood lead level and match this information with the names and addresses of families receiving HCV assistance.

The public health department has stated it does not wish to receive a quarterly report of an updated list of addresses of Section 8 units. Therefore, the HACSD will not provide this report.

### **PRIVACY RIGHTS**

[24 CFR 982.551 and CFR 5.212]

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/HACSD will release family information.

The HACSD's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files are stored in a secure location that may only be accessed by authorized staff.

HACSD staff will not discuss or disclose family information contained in files, upfront income verification (UIV) information, or third-party verifications, except for a lawful business reason. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action. Security access for the Enterprise Income Verification (EIV) systems will be reviewed quarterly and all users will have a signed user agreement on file. The HACSD will not disclose information obtained through the EIV system to any person other than the person to whom the income information pertains, even if another person has a release of information. In addition, the HACSD will not take any adverse action against the family as a result of information obtained from the EIV system, but may take action if the information is confirmed by the family member or a third party.

Unauthorized persons may not remove files from secure storage areas including electronic storage systems.

The collection, maintenance, use and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of federal, state, and local law.

### **FAMILY OUTREACH**

The HACSD will, on a regular basis, publicize and disseminate information to make known the availability of housing assistance, and related services for very low-income families. If the HACSD's waiting list is closed and then reopened, the HACSD will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media or by other suitable means.

To reach persons who cannot read newspapers, the HACSD will distribute fact sheets to the broadcasting media, and may initiate personal contacts with members of the news media and community service personnel. The HACSD may also utilize public service announcements.

The HACSD will communicate the status of housing assistance availability to other service providers in the community and advise them of housing eligibility factors and guidelines so they can make proper referrals to those in need of housing assistance.

### **OWNER OUTREACH**

The HACSD makes a concerted effort to keep private owners informed of applicable legislative changes in program requirements.

The HACSD encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

The HACSD encourages participation by owners of suitable units located outside areas of high poverty or minority concentration.

The HACSD conducts periodic meetings with owners, upon request, to improve owner relations and to recruit new owners.

The staff of the HACSD initiates personal contact with private property owners and managers by telephone, or, upon request, at informal discussions and meetings.

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

The HACSD actively participates in community-based organizations comprised of private property and apartment owners and managers.

The HACSD may periodically:

- Develop working relationships with owners and real estate broker associations.
- Establish contact with civic, charitable and neighborhood organizations, and public agencies which have an interest in housing for low-income.

## **ISSUANCE OF VOUCHERS**

When funding is available, the HACSD issues vouchers to eligible applicants. The HACSD strives to issue enough vouchers to maintain a 100 percent lease-up rate, while managing within the available funding. The HACSD performs a monthly calculation to determine whether applications should be processed, the number of vouchers that can be issued, and to what extent vouchers can be over-issued (issue more vouchers than the budget allows to achieve maximum lease-up rate).

The HACSD may over-issue vouchers to the extent necessary to meet leasing goals, if funding is available. All over-issued vouchers will be honored, unless the HACSD has insufficient funds to support the voucher, in which case the voucher will be suspended until there is sufficient funding. If the HACSD finds it is over-leased, it must adjust its future issuance of vouchers so as not to exceed the Annual Contributions Contract (ACC) fiscal year budget limitations.

## **PAYMENT STANDARDS**

(24 CFR 982.503 and 24 CFR 888.113)

On November 16, 2016, HUD published the Small Area Fair Market Rents (SAFMR) Final Rule. The rule provides that in lieu of determining Housing Choice Voucher (HCV) payment standards using a metropolitan area-wide Fair Market Rent (FMR), payment standards will use FMRs calculated for ZIP codes within metropolitan areas. SAFMRs are required to be used in areas designated by HUD. The San Diego metropolitan area was designated to use SAFMRs in determining payment standards. HACSD implemented the use of SAFMRs effective October 1, 2018.

The payment standard is the basis for calculating the maximum subsidy a family may receive. In accordance with HUD regulation, and at the HACSD's discretion, the voucher payment standard amount is between 90 percent and 110 percent of the HUD published SAFMR. This is considered the basic range. The HACSD reviews the appropriateness of the payment standard annually upon publication of the new SAFMRs. The HACSD may at any time make the administrative decision to adopt a payment standard that is from 90 percent to 110 percent of the most recently published SAFMR, unless HUD approves an exception payment standard.

For each SAFMR area, the HACSD will establish payment standard amounts for each unit size. The HACSD, subject to available funding, may adopt a SAFMR of up to 110 percent of SAFMR if needed to expand housing opportunities outside areas of minority or poverty concentration. The HACSD may request an exception payment standard or adopt a higher payment standard for its Section 8 Homeownership participants.

The HACSD, if funding is available, may approve a higher payment standard up to 120 percent of SAFMR as a reasonable accommodation for a family that includes a person with disabilities. The HACSD's policies and practices are designed to provide reasonable accommodations to persons with disabilities, upon request, so they may fully access and utilize the housing program and related services.

Upon release of SAFMRs, the HACSD must update its payment standards, if the payment standards are no longer within the basic range of 90-110 percent of the current SAFMR.

The HACSD may review its payment standards in the following situations:

- Upon release of new SAFMRs
- Upon funding changes
- Upon management directive

The HACSD may also review its payment standards to determine if a payment standard change could alleviate participants excessive rent burden, improve the quality of assisted units, increase unit availability, decrease lease-up time, or improve voucher utilization or success rate.

SAFMRs are required to be used in all tenant-based HCV programs including special purpose vouchers such as Veterans Affairs Supportive Housing (VASH) and Mainstream vouchers. SAFMRs are not required to be used to determine payment standards for project-based vouchers and other, non-HCV, rental assistance programs which HACSD administers. The area-wide FMR will continued to be used for those applicable programs.

The payment standards may be changed at any time and payment standards increases will not be applied retroactively to completed recertifications.

### **ADJUSTMENTS TO PAYMENT STANDARDS**

[24 CFR 982.503]

Payment standards may be adjusted, depending on available funding, within HUD regulatory and financial limitations, to increase housing assistance payments to keep family rents affordable. The HACSD will not raise payment standards solely to make

"high end" units available to voucher holders. The HACSD may use some or all of the measures below in making its determination of whether an adjustment should be made to the payment standards.

### **Assisted Families' Rent Burdens**

If it is determined that there is a decline in the number of families successfully leasing into an eligible unit prior to the expiration of their vouchers, the HACSD may review its voucher payment standard amounts to determine whether more than 40 percent of families in a particular unit size are paying more than 30 percent of their annual adjusted income for rent.

If it is determined that the rents of particular unit sizes in the HACSD's jurisdiction are creating rent burdens for families, the HACSD may modify its payment standards for those particular unit sizes.

The HACSD may establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction, if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty or into neighborhoods with greater opportunity.

### **Quality of Units Selected**

The HACSD may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing to ensure that payment standard increases are needed to reach the mid-range of the market.

### **Families Rent Burden Analysis**

The HACSD may review the average percent of income that families on the program are paying for rent. If more than 40 percent of families are paying more than 30 percent of monthly-adjusted income for a particular unit size, the HACSD may evaluate the number of families renting units larger than their voucher size, or luxury or high-end units.

If families are paying more than 30 percent of their income for rent due to the selection of larger bedroom size units or luxury units, the HACSD will decline to increase the payment standard. If this is not the primary reason for families' rent burden, the HACSD will continue increasing the payment standard within HUD regulatory limitations.

### **Rent to Owner Increases**

The HACSD may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

### **Time to Locate Housing**

The HACSD may consider the average time period for families to lease up under the voucher program. If voucher holders are unable to locate suitable housing within their voucher term due to unaffordable rents and funding permits, the payment standard may be adjusted.

### **Lowering of the Payment Standard**

Lowering of the SAFMRs may require an adjustment of the payment standard. Additionally, statistical analysis may reveal that the payment standard should be lowered. In any case, the payment standard will not be set below 90 percent of the SAFMR without authorization from HUD.

### **Financial Feasibility**

Before increasing the payment standard, the HACSD may review its budget to determine the impact of projected subsidy increases on funding available for the program and the number of families served.

For this purpose, the HACSD will compare the number of families served under higher payment standards to the number assisted under current payment standards.

### **EXCEPTION PAYMENT STANDARDS**

If the dwelling unit is located in an exception area, the HACSD must use the appropriate payment standard amount established for the exception area in accordance with regulation 24 CFR 982.503(c).

### **SUBSIDY STANDARDS**

[24 CFR 982.402]

The HACSD may take the administrative action at any time, if warranted by HUD funding limitations and/or reductions, to reduce its subsidy standards to two people per bedroom and living area with no exceptions. The HACSD may take the administrative action at any time to increase its subsidy standards, if HUD and funding allows and if necessary to improve or maintain the viability of the program.

## UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS

[24 CFR 5.632, 982.517]

The same utility allowance schedule is used for all tenant-based programs. Changes in utility allowances will be applied at the family's first annual reexamination that is being processed after the effective date of the utility allowance change.

The utility allowance is intended to cover the cost of essential utilities not included in the rent, including the cost of tenant-provided/paid refrigerators, ranges, trash collection, water, sewer, gas and electricity. 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.

A person with a disability who provides medical verification of higher utility costs due to the disability may receive a higher utility allowance of 10 percent over the standard utility allowance for the utility that is more costly due to that person's disability.

The utility allowance schedule must include essential utilities and services that are necessary in the locality to provide housing that complies with the Housing Quality Standards. However, the HACSD may not include allowances for non-essential utility costs such as cable or satellite television, telephone, or internet connection.

The HACSD must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, air conditioning, water heating, water, sewer, trash collection, other electric, refrigerator (for tenant-supplied refrigerator), and range (for tenant-supplied range).

An allowance for tenant-paid air conditioning will be provided in those cases where the majority of housing units in the market have central air conditioning or are wired for tenant installed air conditioners [24 CFR 982.517].

Given the often lower amount of the utilities than for other dwelling types, separate "flat-rate" utility allowances for certain utilities may be allowed for mobile homes in parks. Flat-rate utilities are utility expenses charged to a mobile home owner by the mobile home park based on either sub-metering or total park costs divided among the residents by a set formula.

Complexes of five or more units may charge flat rate utilities based on the above formula. However, owners of houses, townhouses, duplexes, three-plexes or four-plexes are not allowed to charge the tenants for shared meter utilities.

The HACSD will review and revise the utility allowance schedule annually. Revised utility allowances will be applied in a participant family's rent calculation at the next reexamination.

The approved utility allowance schedule is given to families along with their voucher. The utility allowances are based on the lower of the actual size of the unit the family selects or the family's voucher size.

When families, including mobile home owners and Section 8 Homeownership participants, provide their own range and refrigerator, the HACSD 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 ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate new or used appliance over a 12-month period.

Utility allowances for family provided stove and/or refrigerator will not be given if the owner has available a stove and/or refrigerator, but it is the family's preference to provide its own appliances.

When the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 5.632], the HACSD will provide a utility reimbursement payment for the family each month. The check or direct deposit will be issued directly to the family.

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

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

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

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

- Any individual whose current use of alcohol or drugs (including medical marijuana) prevents the individual from participating in the program or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others

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

The HUD definition of a person with a disability is narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the elderly/disabled household deduction, the allowance for medical expenses or the allowance for disability assistance expenses. [24 CFR 5.403].

RESERVED

## WAITING LIST

[24 CFR Ch IX, Subpart E; 982.54(d)(1); 982.202, 982.203, 982.204, 982.205, 982.206]

### INTRODUCTION

**T**he HACSD's objective is to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admission in accordance with the policies in this Administrative Plan.

This chapter explains the local preferences that the HACSD has adopted to meet local housing needs, defines the eligibility criteria for the preferences, and explains the HACSD's system of applying them.

By maintaining an accurate waiting list, the HACSD is able to perform the activities in a manner that ensures an adequate pool of qualified applicants is available for the timely use of program funds.

The policy of the HACSD is to ensure that all families interested in housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, the placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the HACSD will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made.

### ORDER OF SELECTION

[24 CFR 982.204]

The HACSD will select families according to date and time of application within preference groups. The HACSD will skip over families to select families that meet specific criteria if it receives targeted funding for those specific families. The HACSD cannot select families for admission to the program in an order different from the order

on the waiting list for the purpose of selecting lower-cost families for admission to the program.

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify and in accordance with the HACSD's hierarchy of preferences. Within each targeted funding or preference category, families will be selected according to the date and time their waiting list application is received.

## **LOCAL PREFERENCES**

[24 CFR 982.202 and 982.207]

The following local preferences are established. When determining equally ranked preferences, the date and time of application is the final deciding factor.

### **Special Local Preferences**

The HACSD has established special local preferences for three groups: (1) HACSD Public Housing residents referred by the Public Housing administrator who must move due to being the victims of domestic violence, dating violence, sexual assault, or stalking; or is seeking an emergency transfer under VAWA from the PHA's public housing program (2) HACSD Public Housing residents referred by the Public Housing Administrator who must move out of their units for a significant period of time, as determined by the Public Housing Administrator, in order for repairs to be made to their HACSD Public Housing units; (3) Eligible homeless applicants who have been referred by the Regional Taskforce on the Homeless agency members who either meet the definition of homeless or who are exiting federally-assisted, locally-assisted, or state-assisted HACSD/HCDS administered housing programs with no other permanent housing placement options.\* These selection preferences are rated higher than the following ranking preferences. The HACSD will not process waiting list applications in a subordinate category before all waiting list applications in a superior category have been processed. \***Note:** Special local preference (3) will have a maximum of 750 vouchers available to those who meet the criteria.

### **Category One**

The HACSD uses equally weighted local preferences for applicants, with priorities for those **who live or work** (see definition of working families on page 2-3) **in the HACSD jurisdiction** and are in one or more of the following categories:

- Families with dependent children
- Working Families (The Head of household, spouse or sole household member must have worked an average of at least 32+ hours per week with no more than a two-week break for the previous 12 months. Applicants may combine job training or

academic program participation as part of the previous 12-month requirement. Applicants receiving unemployment, disability, or worker's compensation benefits will be considered qualifying under this preference if those benefits were the result of 12 continuous months of employment at 32+ hours per week up to the start of the above referenced benefits.)

- Elderly families (The Head of household or spouse is 62 years of age or older.)
- Disabled families (At least one household member is disabled.)
- Veterans or surviving spouses of veterans (A veteran with a dishonorable discharge does not qualify for this preference.)
- Homeless- "homeless individual," "homeless person," or "homeless family" per HUD's Definition of Homeless for the Continuum of Care (CoC) Program (previously Shelter Plus Care)

### **Category Two**

Applicants who live or work in the HACSD jurisdiction, but who do not fit in Category One

### **Category Three**

Applicants who *do not live or work within the HACSD jurisdiction*, but are one or more of the following:

- Families with dependent children
- Working Families (The Head of household, spouse or sole household member must have worked an average of at least 32+ hours per week with no more than a two-week break for the previous 12 months. Applicants may combine job training or academic program participation as part of the previous 12-month requirement. Applicants receiving unemployment, disability, or worker's compensation benefits will be considered qualifying under this preference if those benefits were the result of 12 continuous months of employment at 32+ hours per week up to the start of the above referenced benefits.)
- Elderly families (The Head of household or spouse is 62 years of age or older.)
- Disabled families (At least one household member is disabled.)

- Veterans or surviving spouses of veterans (A veteran with a dishonorable discharge does not qualify for this preference.)
- Homeless “homeless individual,” “homeless person,” or “homeless family” per HUD’s Definition of Homeless for the Continuum of Care (CoC) Program (previously Shelter Plus Care)

### **Category Four**

All other applicants not indicated above.

## **GENERAL WAITING LIST MANAGEMENT**

[24 CFR 982.204]

The HACSD uses a single waiting list for admission to its Section 8 tenant-based assistance program. The HACSD will not merge its waiting lists [24 CFR 982.205]. However, if the Section 8 waiting list is open when the applicant is placed on the Public Housing Program, another project-based voucher program or the Moderate Rehabilitation Program waiting lists, the HACSD must offer to place the family on the tenant-based assistance list.

Moderate Rehabilitation Program applicants may be taken from the Section 8 waiting list. Mainstream Program applicants are taken from the Section 8 waiting list.

A family who lives in the jurisdiction of another cooperative housing authority, named below, will be advised of the benefit of being placed on the appropriate housing authority’s waiting list, and the information will be forwarded to the appropriate cooperative housing authority upon verbal permission of the family.

### **COOPERATIVE AGREEMENT**

The HACSD and the PHAs of the cities of San Diego, Oceanside, National City, Encinitas, and Carlsbad have a cooperative agreement to accept application transfers from a cooperating PHA of like program, providing the applicant resides or works in the receiving PHA’s jurisdiction.

The PHAs will transfer, upon request, to the appropriate cooperating PHA the waiting list applications of applicants who are residing or working in the jurisdiction of the cooperating PHA. Upon receipt of the application, the receiving PHA will preserve the original date, time and requested program, providing the receiving PHA has an open waiting list and the applicant has not been removed and/or denied from the HACSD waiting list after the original date. If the receiving PHA’s waiting list is closed when the application is transferred, the application will reflect the earliest date that the waiting list is reopened.

The HACSD will not accept the transfer of waiting list applicants who do not live or work in the HACSD's jurisdiction or whose assistance was denied or terminated by the HACSD. The HACSD will not accept the transfer of waiting list applicants who do not have an active waiting list status.

The HACSD may limit the number of cooperative PHA applications it processes during a 30-day or 12-month period.

An applicant who moves out of the jurisdiction of the HACSD may remain on the HACSD waiting list with the appropriate preference. An applicant's order may change on the waiting list depending on preference(s) claimed.

### **APPLICATIONS FOR PROGRAM ADMISSION**

All applicants will be selected from the waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

#### **Special Admissions**

The HACSD may admit up to 10 percent of its annual admissions as special admissions [24 CFR 982.54(d)(3), 982.203]. However, these special admissions must be funded by special HUD-targeted funding. Examples of this special funding follow:

- 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 under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101, et seq.)
- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173)
- A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165)
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project

#### **Targeted Funding**

Under 24 CFR 982.204(e), HUD may award the HACSD funding for a specified category of families on the HACSD waiting list. The HACSD will use this funding to assist the families who have been on the HACSD waiting list the longest, who reside in the jurisdiction of the HACSD and who are determined to fall in the specified category required by the funding source.

### **Taking Applications to the Waiting List**

The HACSD, at the time of preliminary application, will collect the following information necessary for proper selection from the waiting list:

- Applicant name
- Applicant Address
- Date and time of application
- Qualification for any local preference
- Gross annual income
- Disabled or Elderly household
- Racial or ethnic designation of the head of household
- Other targeted program qualifications

The application for placement on the waiting list may be taken by telephone, in writing, on-line via a web-based internet applications system, or from an applicant who visits the office. All possible reasonable accommodations will be provided to families with persons with disabilities. Bilingual staff is available to take waiting list applications of those with limited English proficiency or the services of the language line are utilized to assist applicants of limited English proficiency.

In most cases, the applicant will not be interviewed, the information will not be verified, and eligibility will not be fully evaluated, until the applicant's name has reached the top of the waiting list. Preferences will not be verified until selected from the waiting list [24 CFR 982.207].

All applicants will be treated equally on the waiting list in accordance with the preferences, policies and the regulations.

Applicants will not be placed on the waiting list if the HACSD has information that indicates that they are ineligible, such as computer notes or alerts, or statements from the applicants. Applicants who have been or are in the process of being terminated

from the Section 8 Rental Assistance Program or other federal housing programs for violent or drug-related criminal activities that involve sales or production will not be placed on the waiting list for five years from the date of termination. For all other violations, applicants will not be placed on the waiting list for three years from the date of termination. Applicants who owe money to a housing authority will not be placed on the waiting list until the debt is paid. If the applicant challenges the denial of placement on the waiting list, the applicant will be advised of his/her right to request an informal review.

Applicants are required to inform the HACSD of changes in address. Applicants are also required to respond to requests from the HACSD to update information on their application, or to determine their continued interest in assistance. Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are responsible for notifying the HACSD, preferably through the online Applicant portal, when his/her circumstances change.

When an applicant claims an additional preference, the applicant will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

Applicants on the waiting list with equal preference status will be organized by date and time of their applications.

### **Pulling Applicants from the Waiting List**

Applicants will not be pulled from the waiting list for eligibility processing unless funding is available. Once funding is available, applicants will be pulled by preference group and income targeting guidelines and in proper order, as determined by their date and time of placement on the waiting list. The method of selection from the waiting list will be clearly documented [24 CFR 982.207(e)].

### **Pre-screening Applications**

Applicants pulled from the waiting list may be mailed a pre-screening application for the purpose of obtaining the applicant's self-certification of eligibility. In addition to the pre-screening application, the applicant may be asked to provide supporting documents, such as pay stubs and bank statements. The pre-screening applications serve as a preliminary evaluation of the eligibility of waiting list applications. If the pre-screening application indicates the applicant is eligible, the applicant will then be issued a full-eligibility application. The full application includes Form HUD-90026, Supplement to Application for Federally Assisted Housing. In evaluating the pre-screening applications, the HACSD generally will determine income eligibility based on the higher annual income calculated, although the HACSD will review the information in its entirety to make its determination. Those denied based on the pre-screening application will be offered the opportunity to request an informal review.

Additions to the household received after prescreening will not be permitted until the family has been assisted for at least 12 months in accordance with the HACSD's interim recertification policy, unless the additions are due to birth, adoption, marriage, court-awarded custody, or return of minor or disabled children to the household.

## **RETURN TO THE WAITING LIST**

### **Applicants who must Reapply**

Applicants who reapply to be placed back on the waiting list will be positioned on the waiting list as of the date and time they reapply.

If the family declines the offer of a voucher after the completion of the eligibility process, the family will not be eligible to be returned to the waiting list. The family must reapply to the waiting list.

A family whose application is denied for failure to provide information must reapply to be placed back on the waiting list.

A family found ineligible for assistance must reapply to be placed back on the waiting list.

Applicants found ineligible for assistance because they exceed the current HUD published Section 8 income limits must reapply to be placed back on the waiting list.

### **Applicants Reinstated at Original Date and Time of Application**

Applicants removed from the waiting list will be given the benefit of the doubt if there is a reasonable possibility they were removed from the waiting list through no fault of their own. These applicants may be reinstated on the waiting list if there is a reasonable possibility they were not notified, such as in the case of only one notice being issued or that they had reported an address change that was not entered in the system through no fault of their own. In order to be reinstated, applicants must request reinstatement and declare under penalty of perjury that they had either submitted changes of address to the HACSD in a timely manner; that they had not changed their address; that they had not received the notice issued by the HACSD; or that they should be reinstated as a reasonable accommodation for disability.

### **Applicants Returned to the Waiting List at Original Date and Time of Application**

If the family requests its name be returned to the waiting list at its former date and time of application prior to the completion of the eligibility process, the family may be returned to the waiting list as inactive unless it has been determined the family is ineligible.

Otherwise eligible applicants pulled from the waiting list and found not to meet preference or income-targeting requirements will be returned to the waiting list at original date/time of application.

### **INCOME TARGETING**

[24 CFR 982.201(b)(2)]

In accordance with the Quality Housing and Work Responsibility Act of 1998 (QHWRA), each fiscal year the HACSD will reserve a minimum of 75 percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income (AMI) or the federal poverty level. HUD refers to these families as extremely low-income families. The HACSD will admit families who meet the HACSD preferences and who qualify under the extremely low-income limit to meet the income-targeting requirement. The HACSD's income-targeting requirement does not apply to low-income families continuously assisted, as provided for under the U.S Housing Act of 1937. The HACSD is also exempted from this requirement when providing assistance to low-income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out. The HACSD may, at least annually, exercise the "fungibility" provision of the QHWRA. This provision allows the HACSD to admit less than the required minimum 40 percent of extremely low-income families in a fiscal year to its public housing program, if the admission of extremely low-income families in the tenant-based assistance program exceeds seventy-five percent (75%) of all admissions during the fiscal year. Upon exercising this option, the HACSD will follow the fungibility threshold limitations as set forth in QHWRA legislation. The HACSD-determined fungibility procedures are reflected in its Public Housing Admissions and Continued Occupancy Policy.

### **OTHER HOUSING ASSISTANCE**

[24 CFR 982.205(b)]

Other housing assistance means: a federal, state, or local housing subsidy, as determined by HUD, including public housing.

If an applicant has applied for, received, or refused other housing, the HACSD will not:

Refuse to list the applicant on the HACSD waiting list for tenant-based assistance.

Deny appropriate admission preferences to a qualified applicant.

Change the applicant's appropriate ranking order on the waiting list.

Remove the applicant from the waiting list.

However, the HACSD may remove the applicant from the waiting list for tenant-based assistance, if the applicant has refused voucher program assistance.

## **PURGING**

The waiting list may be purged periodically to ensure that it is current and accurate. In order to purge the waiting list, the HACSD will perform outreach efforts to notify the public that the waitlist will be updated. All notifications will provide the date by which a specified action must be taken and failure to do so will result in the applicant's name being inactivated on the waiting list. The HACSD will notify the public by using one or more of the methods listed below:

- A notice will be mailed asking applicants for confirmation of continued interest.
- Publication in local newspapers of general circulation, as well as minority media
- Facebook postings
- English and Spanish flyers in County libraries
- Postings on HACSD's website
- Twitter blasts to the public
- County press releases
- Community meetings
- Emails to cities managers and Housing Departments within the HACSD's jurisdiction

If the applicant provides information that s/he did not respond to the notice because of a family member's disability, they may be entitled to reinstatement as a reasonable accommodation. The HACSD will reinstate the applicant at the original date and time of application. The family will also be reinstated if there is a reasonable possibility that the family was not notified due to circumstances that were beyond the family's control.

**OPENING/CLOSING THE WAITING LIST**

[24 CFR 982.206]

It is generally the policy of the HACSD not to close the waiting list. However, the HACSD may stop accepting applications if it is determined that the existing waiting list contains an adequate pool of applicants to utilize the program funding that is available. The HACSD will provide public notice at least a 30-day prior to closing the list. The waiting list will not be closed if it has a discriminatory effect inconsistent with applicable civil rights laws. If the HACSD closes its waiting list, it will advertise reopening its waiting list through public notices in the following suitable media outlets including, but not limited to: the HACSD website, a Spanish language general circulation publication, and an English language general circulation publication.

The notice will contain:

The dates, times, and the locations where families may apply

The programs for which applications will be taken

A brief description of the program

A statement that public housing residents must submit a separate application if they want to apply for Section 8

Limitations, if any, on who may apply

HACSD address

HACSD telephone number

Location/information on submitting applications

Local Preferences

The notices will be provided in an accessible form. The HACSD also may issue news releases to radio and/or television stations and provide presentations to organizations that provide assistance to special population groups, such as the elderly, or persons with disabilities.

Upon request from a person with a disability, additional time will be given as a reasonable accommodation for submission of an application after the closing deadline, if there is a closing deadline. This reasonable accommodation is to allow persons with disabilities the greatest possible opportunity to submit an application.

RESERVED

# ELIGIBILITY FOR ADMISSION AND PARTICIPATION

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

## INTRODUCTION

**T**his chapter defines both HUD and the HACSD's criteria for admission and ongoing participation to the program. The policy of the HACSD is to strive for objectivity and consistency in applying program requirements to evaluate the eligibility of families who apply. The HACSD staff will review all information provided by the family carefully. In all cases, families will receive an explanation of the basis for any decision by the HACSD regarding eligibility.

## CHANGE OF HEAD OF HOUSEHOLD WHILE ON THE WAITING LIST

While the applicant is on the waiting list, the HACSD will not change the head of household unless it receives either: (1) a notarized statement from the head of household requesting the head of household be changed and documentation indicating the replacement was residing with the head of household at the time of the original application; (2) the head of household's death certificate, if head of household died **and** proof that the person requesting to become head of household was a significant other who resided with that person at the time of that person's death (utility bills and lease agreement reflecting address on record, marriage certificate, joint bank account statements, jointly-owned property, etc.). However, once the applicant is selected from the waiting list, the listed head of household must be included in the eligibility determination.

An estranged significant other may be allowed to take the place of the head of household if s/he can provide documentation indicating s/he resided with the head of household at the address reflected on the waiting list records and was part of the head of household's family unit (lease agreement, notarized statement from property owner, joint bank account or other property). Before this change is made, a letter must be mailed to the head of household advising him/her that a request has been made to

change his/her status on the waiting list. S/he will be advised that s/he will be dropped from the waiting list if s/he does not respond within 14 days. If there is no response by the deadline, a phone call will be attempted and documented. After that, providing the requester provides adequate documentation, the head of household may be changed to the remaining significant other. All documentation of this action must be retained for five years.

Information regarding a person's waiting list status may only be provided to the applicant. The HACSD must receive a written release of information from the applicant before information will be provided to a third party.

### **POINT IN TIME THAT FAMILY MUST BE ELIGIBLE FOR PROCESSING**

Eligibility processing for a family selected off the waiting list is based on the information provided on the eligibility declaration, the supporting documents submitted and independent verification by the HACSD. The family must be eligible for the preferences it has claimed, income limits and targeting, and jurisdiction priority as of the date it was pulled off the waiting list.

A family change in circumstances after the date the family was selected off the waiting list for eligibility processing will not be evaluated for a possible change in preference status, jurisdiction, income limits and targeting, unless the family change in circumstances prior to voucher issuance results in the family's income exceeding 50% of area median income (AMI), in which case the family must be denied program admission.

Additions to the household received after prescreening will not be permitted until the family has been assisted for at least 12 months, in accordance with the HACSD's interim policy, unless the additions are due to birth, adoption, marriage, court-awarded custody, or return of minor or disabled children to the household.

The following scenarios are handled as follows:

#### **Scenario Number One**

A family met admission preferences and income targeting requirements as of the point of time of being selected from the waiting list, but during the full application process, the family moved outside of the HACSD's jurisdiction. The family may continue to be processed for admission.

#### **Scenario Number Two**

A family was over 50% AMI at the time it was selected from the waiting list, but then the income was reduced as a result of termination of employment. The family must be denied as being over income at the time it was pulled off the waiting list and must

reapply.

**Scenario Number Three**

A family was at or below 30% AMI at the time it was selected from the waiting list. Then its income increased to over 30% of AMI, but at or below 50% of AMI, prior to completion of the full application and issuance of the voucher. The family met the income targeting requirements when it was pulled off the waiting list and is still income-eligible at completion of the full application and issuance of the voucher, so the family may be processed for admission.

**Scenario Number Four**

The family was income-eligible at the time it was selected from the waiting list but started working prior to the completion of the full application, which resulted in the family's income exceeding 50% of the AMI. The family must be denied as over-income and future changes in the family's circumstances cannot be considered; e.g., the family member quits his/her job. The family must reapply to the waiting list.

**Scenario Number Five**

The family's income increases after it was issued a voucher. The income increase will be handled in accordance with the HACSD's current interim policy, (See Page 6-8).

**SCREENING APPLICANTS/PARTICIPANTS**

**PURPOSE OF SCREENING APPLICANTS AND PARTICIPANTS**

All federally-assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell a controlled substance illegally, or terrorize neighbors. It is the intention of the HACSD to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community.

Keep program participants and their families free from threats to their personal safety.

Support parental efforts to instill values of personal responsibility and hard work.

Help maintain an environment where children can live safely, learn and grow up to be productive citizens.

Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

Not tolerate or enable families to act irresponsibly, or in a manner that negatively affects others.

## **SCREENING PROCESS**

All screening and termination of assistance procedures shall be administered fairly, and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis.

To the maximum extent possible, the HACSD will involve other community and governmental entities in the promotion and enforcement of this policy.

This policy will be provided to applicants and participants upon request.

## **ELIGIBILITY FACTORS**

[24 CFR 982.201; 982.551]

## **DEFINITIONS**

*Covered person*, for purposes of 24 CFR Part 982 and this chapter, 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 Federal Controlled Substances Act (21 U.S.C. 802), and its illegal use, as defined under federal guidelines, is prohibited. This includes medical and recreational marijuana.

*Drug-related criminal activity* means 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 (includes medical and recreational marijuana).

*Guest*, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

*Household*, for the purposes of 24 CFR Part 982 and this chapter, means the assisted family and PHA-approved live-in aide and foster children.

*Other person under the tenant's control*, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person,

although not staying as a guest (as defined in this chapter) in the unit, is or was at the time of the activity in question on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

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

*Other Criminal Activity* is activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises, etc.

*Engaged in or engaging in* criminal activity is a criminal act as defined in this Plan by an applicant or participant or household member, which may or may not have resulted in the arrest and/or conviction of the applicant, participant, or household member.

### **ELIGIBILITY FOR ADMISSION**

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional eligibility criteria established by the HACSD in an effort to prevent future criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity of the premises. As required by 24 CFR 982, Subpart L, and CFR Part 5, Subpart J, the HACSD will screen applicants as thoroughly and fairly as possible for current illegal drug-related activities (including use of medical and recreational marijuana), current alcohol abuse activities, sex-offender registration requirements, violent criminal behavior, and other activities that may negatively impact others.

Such screening will apply to any member of the household who is 18 years of age or older; however, evidence of prohibited criminal activities conducted by minors in the household will also be cause for denial of assistance.

Admission to the program is *never* based on [982.202(b)]:

Where a family lives prior to admission to the program

Where the family will live with assistance under the program

Discrimination of a family, because it includes unwed parents, recipients of public assistance, or children born out of wedlock

Discrimination of a family, because it includes children (familial status discrimination).

A family's participation in a family self-sufficiency program

Other reasons as listed in under the "Fair Housing and Reasonable Accommodations" sections.

Eligibility criteria include:

The applicant's income [24 CFR 982.201(b), 982.353] must be within the appropriate income limits as follows:

The applicant must have an annual income at the time of admission that does not exceed the income limits for occupancy established by HUD.

The head or spouse is at least 18 years of age, or an emancipated minor under state law.

The family must be taken from the waiting list in order of preference and income-targeting guidelines.

The family is composed of one or more persons.

The HACSD will not admit families whose income exceeds 50 percent of the area median income, except those families included in 24 CFR 982.201(b) as described below.

To be income eligible, the family may be under the low-income limit in any of the following categories [24 CFR 982.201(b)]:

A very-low-income family

A low-income family referred from the local Veterans Administration Medical Center for the HUD-VASH program. (Does not apply to the HCV program.)

A low-income family that is continuously assisted under the 1937 Housing Act, such as a Public Housing family. An applicant is continuously assisted if the family had received federal assistance under the 1937 Housing Act within 120 days of voucher issuance.

A low-income family physically displaced by rental rehabilitation activity under 24 CFR Part 511.

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 homeownership programs under 24 CFR 248.173.

A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage, or voluntary termination of mortgage insurance contract under 24 CFR 248.165.

A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program.

Applicants will be denied assistance and not admitted to the program:

1. If the applicant or a member of his or her household, had been evicted from federally-assisted housing for drug-related criminal activity within three years, beginning on the date of the eviction. The HACSD has discretion to admit the applicant, however, if after considering the individual circumstances of the household, the HACSD determines that:

Full restitution, including the cost of eviction, was made to the landlord, if lease violations occurred as a result of the criminal activity; and

The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the HACSD; or

The circumstances leading to eviction no longer exist because:

The criminal household member has died.

The criminal household member is no longer in the household and the head of household has certified that the criminal family member will never be allowed to return to visit the family. The head of household must certify that s/he understands that if the criminal family member is allowed to return to visit, the family's program participation will be terminated.

2. If the HACSD determines that any household member is currently engaging in illegal use of a drug;
3. If the HACSD has reasonable cause to believe that a household member's illegal drug use or alcohol abuse or a pattern of illegal drug use or alcohol abuse may

threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

4. If any member of the family has engaged in violent criminal activity or drug-related criminal activity that involved, sales, trafficking, manufacture, or possession for sales for a five-year period beginning on the later of the dates of the act, arrest, conviction, eviction, or termination from a federally-assisted program and ending on the date the family was pulled off the waiting list;
5. If any member of the family has been evicted from federally-assisted housing for serious violations of the lease, for a three-year period beginning on the later of the dates of the eviction from federally-assisted housing and ending on the date the family was pulled off the waiting list. [982.552(c)].
6. If any member of the family is subject to a lifetime registration requirement under a state sex-offender registration program [982.553(a)].
7. If any member of the family has been convicted of production or manufacture of methamphetamine on federally-assisted property [982.553(a)].
8. If any member of the family has engaged in any other criminal activity within the past three years that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity [982.553(a)].
9. If any member of the family has engaged in any criminal activity within the last five years which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HACSD (including a PHA employee, contractor, subcontractor or agent).
10. If the family fails to meet the preference and income targeting requirements at the time of selection.
11. If the family exceeds the income limits.
12. If, as a past Section 8 program participant, any member violated an important family obligation, other than for illegal drug or criminal activities, within three years prior to the current eligibility interview.
13. A family will be given seven calendar days to pay in full an outstanding debt to a PHA before the family is denied admission. The family must be in compliance with any payment agreement with a PHA for a previous debt.

## **PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING**

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program “on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.”

### **Notification**

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of rights, VAWA Notice of Occupancy Rights (form HUD-5380), and a domestic violence certification the form (HUD-5382) at the time the applicant is denied.

The HACSD acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the PHA’s policies.

While the HACSD is not required to identify whether adverse factors that resulted in the applicant’s denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to the PHA to allow the PHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The HACSD will include in its notice of denial the VAWA information described in this plan as well as including a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the HACSD within 14 business days.

### **Documentation**

Victim Documentation [24 CFR 5.2007]:

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

Perpetrator Documentation:

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **ADMISSION AND PARTICIPATION ELIGIBILITY FACTORS**

[24 CFR 982.551, 982.552, 982.553]

The HACSD will deny program participation or admission in cases where the HACSD determines there is reasonable cause to believe that a household member was or is illegally using a controlled substance, committing violent criminal acts as defined by HUD or the PHA, or engaging in any criminal activity that may threaten the health, safety or right to peaceful enjoyment of other residents or persons residing in the immediate vicinity of the premises.

The HACSD will deny program participation or admission if there has been a pattern of alcohol abuse, which involves four or more serious incidents during the previous 12 months. It is considered "serious" if the party is driving while intoxicated or if the party is arrested or detained due to public intoxication.

Applicants or participants who engaged in violence, or illegal drug activities that involve, sales, trafficking, manufacture, or possession for sales, are prohibited from program participation for five years from the later of the date of the act, conviction, eviction, or termination from federally-assisted housing. The term "illegal drug" includes medical and recreational marijuana.

Applicants or participants who engaged in threatening, abusive or violent behavior or who routinely use vulgar, demeaning, or hostile language and/or gestures and body movement that denotes an implied threat, excessive hostility, or intimidation are prohibited from program participation for five years from the later of the date of the act or termination from federally-assisted housing.

"Abusive or violent behavior" is direct physical abuse, violence or verbal abuse, including the use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, as well as aggressive or hostile gestures and body movement.

"Threatening" refers to oral or written threats or physical gestures that communicate the intent to abuse or commit violence.

The HACSD may waive or reduce the prohibition period depending on the severity of the incident and if the behavior was caused by a disability. However, the PHA will NEVER waive the prohibition period if there was physical violence, the threat of physical violence, or if more than one incident occurred.

Applicants or participants involved in the personal illegal use of controlled substances (including use of medical and recreational marijuana) are prohibited from the program for one year from the later of the dates of the act, arrest or the conviction, unless documentation is provided of successful rehabilitation. However, those who engaged in illegal drug use (including use of medical and recreational marijuana) while participating in a federal housing program are ineligible for assistance for three years from the later of the dates of the conviction, eviction, or termination of assistance.

Applicants or participants involved in other criminal activities that threaten the health, safety or right to peaceful enjoyment of others are ineligible for assistance for three years from the later of the dates of the act, conviction, eviction, or termination of assistance.

Applicants or participants convicted of manufacturing or producing methamphetamine on the premises of federally-assisted housing are prohibited from program participation for life.

Applicants found to be subject to the lifetime sex-offender registration requirements under a state sex-offender registration program are prohibited from HACSD Program participation for life. Current HACSD Program participants who became subject to the lifetime state sex-offender registration requirement prior to May 24, 2001, will be allowed to remain on the Program. Program participants who become subject to the lifetime state sex-offender registration while on the Program may be subject to termination, based upon the participant's specific behavior.

Live-in aides or foster adults/children who are found to be subject to a state sex-offender registration requirement of a state sex-offender registration program or who have currently or previously engaged in any criminal activities as described above, or other activities that may pose a risk will be disapproved for occupancy of the assisted unit.

The existence of prohibited behavior by any household member, regardless of the applicant or participant's knowledge of the behavior, shall be grounds for denial or termination of assistance.

For participants, "currently engaging" means anytime a member or members of the household engaged in prohibited activities while the participant was on the program.

The HACSD may waive the prohibition of program admission for drug-related criminal activity for personal use or a pattern of alcohol abuse, if:

The person demonstrates successful completion of a credible rehabilitation program approved by the HACSD, and the violation did not occur while the family was being assisted.

The HACSD may waive the prohibition of program admission for illegal drug-related or violent criminal activities if:

The circumstances leading to the violation no longer exist because the person who engaged in the illegal drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration. Unless the violator is deceased, the family must sign a certification that states that they understand that the violator must not return to the household and that they may be subject to the termination of benefits if the violator returns to the household.

If there is inconclusive evidence that the act occurred, the HACSD may request additional evidence, such as a police report.

With the exception of the violations occurring as a direct result of a household member being the victim of acts of domestic violence, dating violence, or stalking that do not pose an imminent threat to other tenants or those employed at or providing service to the property, the HACSD will **always**, upon receipt of adequate evidence, terminate program participation for the household for drug-related (including use of medical and recreational marijuana) or violent criminal activities, a pattern of alcohol abuse, or any other criminal activities that may threaten the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

If any applicant/participant deliberately misrepresents information or provides untrue or incomplete information on which eligibility or tenant rent is established, the HACSD may deny or terminate assistance, set-up a collection account, and refer the family file/record to the proper authorities for appropriate disposition.

Each applicant must provide complete and accurate social security numbers and documentation necessary to verify the SSN as a condition of eligibility for all family members, regardless of age, who have been issued a social security number.

Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must provide a complete and accurate social security number and documentation necessary to verify the SSN, as a condition of continued eligibility for all family members, regardless of age, who have been issued a social security number, at their next interim or regularly scheduled reexamination or recertification of family composition or income if the participant has:

Not previously disclosed a SSN;

Previously disclosed a SSN that HUD or the SSA determined was invalid; or

Been issued a new SSN.

The family's assistance will be terminated if the participant does not meet the applicable SSN disclosure, documentation, and verification requirements. The HACSD may defer termination and grant an extension of additional 90 calendar days to disclose a SSN, but only if the HACSD, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant; and there is a likelihood that the participant will be able to disclose a SSN by the deadline. If, upon expiration of the provided time period, the participant fails to produce a SSN, the family's assistance will be terminated.

A family will be denied admission to the program, if any member of the family, including a live-in aide, fails to sign and submit consent forms for obtaining information required by the HACSD, including Form HUD-9886.

In order to receive assistance, at least one family member must be a United States citizen, or eligible immigrant [24 CFR Part 5, Subpart E]. The HACSD will not provide assistance to families prior to the determination of the eligibility of at least one family member, pursuant to this section.

The family will be denied admission or continued assistance if it is found a member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. The family will not be allowed to reapply to the waiting list for three years after the later of the date of discovery or termination of program participation.

## Prohibition Periods for Some Offenses for Applicants and Participants

Lifetime	Indefinitely	Five Years	Three Years	One Year
Program participants and applicants subject to lifetime sex-offender registration under the state sex-offender registration program. Exception are current HACSD Program participants who were on the program prior to 5/24/2001 who were registered sex offenders prior to 5/24/2001	Currently engaging in illegal drug activities including: use, production, or sales.  Includes medical and recreational marijuana	Previous violent criminal activity	From date of eviction from any federally-assisted housing for drug-related criminal activity. Subject to the discretion of the HACSD if the evicted household member who engaged in drug-related criminal activity for personal use has successfully completed a supervised drug rehabilitation program approved by the HACSD; or the circumstances leading to eviction no longer exist.	Illegal drug use, or possession for personal use, (including use of medical and recreational marijuana) unless a family obligation was violated at the same time, then the three- year prohibition period applies.  (One year does not apply, if proof of completing rehabilitation program is provided.)
Program participants and applicants convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.	Pattern of abuse, or abuse of alcohol that interferes with the health, safety, or right to peaceful enjoyment of others.	Previous illegal drug-related criminal activity, that involves: sales, transportation, manufacture, or possession for sale.	From date of termination of federal assistance for a violation of an important family obligation, except drug-related or violent criminal activities.	
	Currently engaging in violent criminal activity.	Violent or hostile behavior towards PHA personnel.	From date of eviction from federally-assisted property for lease violations.	
	Actively engaging in other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises of others.	Previous other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor or agent of the PHA	From date of discovery for having committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.	
	Actively engaging in other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor or agent of the PHA		From date of the later of the act or termination of assistance for any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises or others.	
	Owes money or rent to any PHA.		Three years from the breach of an agreement under the Section 8 or Public Housing Program with a PHA.	

The family will be denied admission or continued assistance if it currently owes rent or other amounts to the HACSD or to another PHA in connection with Section 8 or Public Housing assistance under the 1937 Act, or if it is found that the family owes any money to a housing agency or that an active repayment agreement is in arrears.

The family will be denied admission or continued assistance for three years from the date of the breach of any agreement with the HACSD or another PHA in connection with Section 8 or Public Housing assistance under the 1937 Act.

**OTHER ONGOING PARTICIPATION ELIGIBILITY FACTORS**

The HACSD must terminate assistance for participants, if the family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the HACSD's last housing assistance payment was made. The HACSD may not enter into a HAP contract if the family is ineligible for assistance.

The family's program participation will be permanently terminated if it is found the family provided false, misleading, incomplete or untrue information regarding this person's residency status or violated their family obligations by allowing an unauthorized person to reside in the assisted unit.

The HACSD will terminate program participation of households found to have engaged in drug-related (includes medical and recreational marijuana) or violent or other criminal activities while participating in the program, unless the violations occurred as a direct result of domestic violence, dating violence, or stalking in accordance with the Violence Against Woman Act (VAWA).

The HACSD must terminate program assistance if the family is evicted for serious or repeated violations of the lease, or if there is evidence the family has committed serious or repeated lease violations.

The family's program assistance may be terminated for a violation of family obligations [24 CFR 982.551]. The deciding factors will be any history of previous violations, if the violation was intentional, the impact on the HACSD, the owner, other residents and the surrounding community, the family's speed in correcting the violation and/or making restitution, and other mitigating circumstances, such as the violation(s) occurring as a direct result of a family member being the victim of domestic violence, dating violence, or stalking.

The family must supply any information that the HACSD or HUD determines is necessary to administer the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.

The family must supply any required information requested by the HACSD or HUD, for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

The family must disclose and verify social security numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.

The PHA will terminate program participation of participants who become subject to lifetime state sex-offender registration requirements after May 24, 2001.

All information supplied by the family must be true and complete.

The family is responsible for an HQS breach caused by the family for failure to pay tenant-provided utilities or maintain appliances, or for damages to the dwelling unit beyond normal wear and tear caused by any member of the household or guest. Damages beyond normal wear and tear will be considered damages, which could be assessed against the security deposit.

The family must allow the HACSD to inspect the unit at reasonable times and after reasonable notice.

The family must allow the owner access to the premises to make repairs after reasonable notice was given;

The family may not commit any serious or repeated violations of the lease. The HACSD will determine if the family has committed repeated/serious violations of the lease based on available evidence including, but not limited to, court-ordered eviction, an owner's notice to evict, or witness statements. Serious/repeated lease violations will include, but are not limited to, nonpayment of rent, disturbance of neighbors, destruction of property, criminal activity, or living or housekeeping habits that cause damage to the unit or premises, or repeated or continual failure to maintain the premises in a healthy, safe and sanitary condition.

The family must notify the owner and, at the same time, notify the HACSD before the family moves out of the unit or terminates the lease. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HACSD at the same time the owner is notified.

The family must promptly give the HACSD a copy of any owner eviction notice.

The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

The HACSD must approve the composition of the assisted family residing in the unit. The family must promptly inform the HACSD of the birth, marriage,

adoption, return of a disabled or minor child to the family, or court-awarded custody of a child. The family must request prior HACSD approval to add any other family member as an occupant of the unit. The request to add a family member must be submitted in writing and approved **prior** to the person(s) moving into the unit.

The family must promptly notify the HACSD if a family member moves.

A family must not receive Housing Choice Voucher assistance while residing in a unit owned by a parent, grandparent, grandchild, sister or brother of any member of the family, unless the HACSD has determined prior to approval of the unit, and has notified the owner and family in writing of such determination, that approving rent of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

If the HACSD has given prior approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or the HACSD approval is rescinded or denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to the primary use of the unit as a residence by members of the family, do not cause damage or a nuisance, and the property owner has given permission for such activities. If the HACSD determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the owner legally disallows the profit-making activity in the unit, it will be considered a program violation. If the HACSD determines the business is not legal, it will be considered a program violation.

The family must not sublease the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

The family must not assign the lease or transfer the unit.

The family must promptly notify the HACSD when the family is expected to be absent from the unit more than 14 days.

The family must supply any information or certification requested by the HACSD to verify that the family is living in the unit, or to document a family absence from the unit. The family must cooperate with the HACSD for this purpose. The

family must notify the HACSD, within 14 days, of temporary absence from the unit. The family must notify the HACSD prior to moving from the unit.

The family must not own or have any interest in the unit regardless of whether s/he is a member of the family, with the exception of a mobile home owner renting the pad or a Section 8 Homeownership Program participant.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of others. The household must notify the HACSD in writing within 14 days of occurrence if any family member is arrested for any drug-related criminal activity, violent criminal activity, or other criminal activity on or near the premises even if the arrest does not result in a conviction.

The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, state or local housing assistance program.

For PHAs that have a Section 8 welfare-to-work program, assistance will be terminated if the family has failed to fulfill its obligation under that program. The HACSD does not currently have a welfare-to-work voucher program.

No assistance shall be provided under Section 8 of the United States Housing Act of 1937, to any individual who is 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) **unless** the student is in at least **one** of the following categories: (1) over the age or 23; (2) a veteran; (3) has or is responsible for a dependent child; (4) is married; (5) is otherwise eligible; or has a parent or parents, if both parents are together, or is living with someone acting as a parent who is/are receiving or eligible to receive Section 8 assistance; or (6) was a person with disabilities receiving assistance before November 30, 2005, when the regulations first changed.

## **CONSIDERATION OF CIRCUMSTANCES**

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

Except in the cases for which denial or termination of assistance is mandatory, the HACSD will consider the following facts and circumstances based on the family's past history prior to making a decision to deny an applicant or terminate a participant's assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property;
- The effects that denial or termination of assistance may have on other members of the family who were involved in the action or failure to act;
- The extent of participation or culpability of an individual family member, including whether the culpable family member is a minor or a person with disabilities; or a victim of domestic violence, dating violence sexual assault, or stalking;
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future;
- While a record of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the HACSD may obtain the police report associated with the arrest and consider the circumstances of the arrest. The HACSD may also consider:
  - Statements made by witnesses or the applicant or participant not included in the police report;
  - Whether criminal charges were filed;
  - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal;
  - Any other evidence relevant to determining whether or not the applicant or participant engaged in disqualifying activity.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity;
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and property;
- Evidence that household member has successfully completed drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

An applicant, a member of an applicant or participant household or an addition to the participant's household, including a live-in aide, will be notified and provided an opportunity to dispute the accuracy and relevance of a criminal record before admission of assistance is denied or participation terminated on the basis of such a

record. The HACSD will allow the family to make an appointment to review a copy of the criminal record upon family request. The family may also submit any other written documentation to be considered in review of the circumstances surrounding the criminal record. Such documentation may include items such as: statements from the member, witnesses, or character witnesses; recommendations from law enforcement personnel such as probation/parole officers, health providers, or others familiar with the case; or evidence of rehabilitation or change in circumstances.

If an applicant or participant submits documentation, a designated committee will review the information and make a recommendation whether a denial notice or termination notice should be issued. In appropriate cases the committee may recommend that the family be offered a stipulated agreement in lieu of a denial or termination notice. The stipulated agreement would contain the terms and conditions for allowing the family to begin or continue to receive assistance. Failure to enter into, or comply with the agreement, shall result in the issuance of a denial or termination notice.

If the applicant does not dispute the accuracy or relevance of the criminal information or upon committee recommendation, a denial or termination notice will be mailed to the applicant or participant. An applicant will then be afforded the right to an Informal Review and a participant will be afforded the right to an Informal Hearing as outlined in Chapter 13.

# VERIFICATION PROCEDURES and CALCULATION OF TTP AND FAMILY RENT

[24 CFR Part 5, Subparts B, D, E and F; 982.54; 982.153; 982.551; 982.158; 24 CFR 5.617]

## INTRODUCTION

**T**he HACSD must verify eligibility, total tenant payment, and family share in accordance with HUD regulations. The HACSD staff will obtain written documentation from independent sources whenever possible. If written third-party verifications are not obtained, the HACSD will attempt to obtain oral third-party verifications, and will always document why third-party verifications were not used.

Applicants and program participants must provide true and complete information to the HACSD whenever information is requested and must supply any information that the HACSD determines is necessary in the administration of the program, including consenting to the HACSD's verification of that information.

This chapter explains HACSD's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. This chapter also reviews key guidelines for the correct determination of the family's portion of the rent.

## METHODS OF VERIFICATION AND TIME ALLOWED

[24 CFR 982.516 and PIH Notice 2017-12]

The HACSD will verify information with the highest level of verification techniques acceptable to HUD, utilizing the following hierarchy:

1. Up-Front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

2. Up-Front Income Verification 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. Tenant Certification/Self-declaration

The HACSD will allow 10 days for the return of written third-party verification form before going to the next method, which is oral verification. The HACSD 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, the certification must be received 14 working days from applicant's/participant's receipt of the HACSD request.

For applicants, verifications may not be more than 60 days old at the time of voucher issuance. For participants, verifications are valid for 120 days from date of receipt.

The family may be required to certify that they do not have a particular type of income or benefit, or asset. If this is required, the certification must either be written in the presence of a HACSD staff person or notarized.

1. **Up-front Income Verification (Level 6/5):** The PHA's first choice is up-front income verification (UIV) which includes sources of information taken directly from on-line systems, such as from the Enterprise Income Verification System (EIV), direct on-line information from the local welfare system, the Work Number, etc.
2. **Written Third-Party Verification (Level 4):** The PHA's second choice is a written third-party verification to substantiate claims made by an applicant or participant. Examples of acceptable tenant provided documentation (generated by a third-party source) include: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letters and/or printouts and unemployment monetary benefit notices.
3. **Written Third-Party Verification Form (Level 3):** The PHA's third choice is traditional third-party verification. A standardized form to collect information from a third-party source.

4. **Oral Third-Party Verifications (Level 2):** The PHA's fourth choice is to use telephone verifications to substantiate the claim of an applicant or participant.
5. **Non-Third-Party Verification (Tenant Declaration) (Level 1):** The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This is the verification method of last resort and should be used when the PHA has not been successful in obtaining information via all other verification techniques.

If UIV or third-party verification is not possible to obtain directly from the source, PHA staff will document the file as to 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.

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

For applicants, verifications may not be more than 60 days old at the time of the issuance of the voucher. For participants, verifications are valid for 120 days from the date of receipt. The HACSD 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).

### **UP-FRONT INCOME VERIFICATION (MANDATORY)**

Up-front income verification (UIV) is information provided directly from a central information collection point, which includes the EIV System wage, pension, social security and supplementary security (SSI) income, the Work Number for wage income information, the local public assistance provider on-line informational link for CalWORKs or TANF income, etc. If this income information is received from this source and is reliable, no other verification is required.

The HACSD will not disclose information obtained through the EIV system to any person other than the person the income information pertains to, even if another person has a release of information. The HACSD will restrict access and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD. EIV information will be retained in the confidential applicant/participant file and will be destroyed when the file is destroyed, in accordance with the HACSD's records retention policies.

The HACSD will not take any adverse action against the family as a result of information obtained from the EIV system but may take action if the information is confirmed by the family member or a third party.

If the EIV report reveals an income source that was not reported by the tenant or is a substantial difference in the reported income information (this is defined as an amount equal or greater than \$200 or more per month) the PHA is required to take the following actions:

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

When the HACSD cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, suspected fraud) the PHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The HACSD will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The HACSD will use the most current income data and, if appropriate, historical income data to calculate the anticipated annual income.

### **WRITTEN THIRD-PARTY VERIFICATION**

An original or authentic document generated by a third-party source, dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. The PHA 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 documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. As verification of earned income, the HACSD will require the family to provide at least the two most current, consecutive pay stubs.

The PHA may reject documentation provided by the tenant for the following HUD-approved reasons:

1. The document is not an original;
2. The original document has been altered, mutilated, or is not legible; or
3. The document appears to be a forged document (i.e., does not appear to be authentic).

If at any time, the tenant is unable to provide acceptable documentation that the PHA deems necessary to complete the income determination process, the PHA is required to submit a traditional third-party verification form to the third-party source for completion and submission to the PHA.

Written third-party verifications are mandatory: to supplement EIV-reported income sources and when EIV has no data; for non-EIV reported income sources; when tenant disputes EIV reported employment and income information **and** is unable to provide acceptable documentation to support dispute.

### **WRITTEN THIRD-PARTY VERIFICATION FORM**

Written third-party verification form is also known as the traditional third-party verification. It is a standardized form to collect information from a third-party source. The form is completed by a third-party by hand (in writing or typeset). PHAs send the form directly to the third-party source by mail, fax, or email.

The written third-party verification form is 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.

### **ORAL THIRD-PARTY VERIFICATION**

Oral third-party verification is 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 attempt (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.

The oral third-party verification is mandatory if written third-party verification is not available.

### **SELF-CERTIFICATION/SELF-DECLARATION**

The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. The PHA must document in the tenant file why third-party verification was not available.

Self-certification is an acceptable form of initial verification when:

- Legal documents are the primary source, such as a birth certificate or other legal documentation of birth
- Families have net assets totaling \$5,000 or less in alignment with Asset section of this Chapter
- A source of income is fully excluded

A notarized self-certification means a family-signed and dated affidavit/ certification/ statement under penalty of perjury in the presence of a notary public or in the presence of a HACSD staff person.

## **RELEASE OF INFORMATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, 24 CFR 5.232]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

All required releases must be completed "as is" by all adult family members, live-in aides and adult foster children. These forms may not be crossed out, amended, added to, or in any way altered. To do so is a program violation.

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

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

In addition, adult family members, live-in aides and adult foster children must sign additional release of information authorization forms, not covered by the above HUD required form.

Adults who are required to sign forms to release specific information will be provided copies of the forms for their review and signature.

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. A live-in aide or adult foster child who refuses to cooperate with the verification requirement will be denied admission to the assisted household. Applicants may request an Informal Review or participants may request an Informal Hearing in according to HACSD procedures.

## **CRIMINAL RECORDS**

The HACSD verifies the criminal history of all adults, live-in aides and adult foster children at the time of program admission; adults, live-in aides, and adult foster children admitted to the assisted household; adults, live-in-aides, and adult foster children who port into the jurisdiction of the HACSD; adults, live-in aides, and adult foster children transferring to another assisted unit, and may verify the criminal history of all adults in the household on a regular basis. The verification is conducted by researching criminal history, including status of a family member subject to a sex-offender registration requirement of a state sex-offender registration program, by accessing the database of the San Diego County Sheriff's Department or similar database, or by sending written inquiries to states where the HACSD will screen all incoming portability admissions and participants for criminal history and registered sex-offender status.

The criminal history of participants/applicants, live-in aides, and adult foster children may be verified through the Department of Justice, and these applicants/participants may be required to provide fingerprints.

The HACSD will ensure that any report of criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished, including expiration of the period for filing a challenge to the HACSD action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)]. However, a record of the screening including the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

All reports of criminal records, while needed, will be housed in a secure area with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance, as well as management.

The HACSD will document in the family's file the circumstances of any verified criminal activities.

## **COMPUTER MATCHING**

HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by the HACSD on the 50058 forms. HUD can disclose social security information to PHAs but is precluded by law from disclosing federal tax return data to PHAs. If HUD receives information from federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose the information to the PHA [24 CFR 5.240]. HUD's letter to the family will also notify the family that HUD has notified the PHA in writing that the family has been advised to contact the PHA. HUD will send the PHA a list of families who have received "income discrepancy" letters.

When the HACSD receives notification from HUD that a family has been sent an "income discrepancy" letter:

- The HACSD will wait 40 days after the date of notification before contacting the tenant.
- After 40 days, the HACSD will contact the tenant by mail, requesting the letter or other notice from HUD concerning the amount or verification of family income.
- The HACSD will place a copy of the letter to the family in the tenant file.

When the HACSD receives the required information, it will verify the accuracy of the income information provided by the family, review the HACSD interim recertification policy, identify unreported income and, if appropriate, charge retroactive rent, change the rent, or terminate assistance.

If the amount of overpaid rent owed to the HACSD exceeds \$1,000, the HACSD may seek to terminate assistance.

If the participant fails to respond to the HACSD:

1. The HACSD will ask HUD to send a second letter with a verified tenant address.

2. After an additional 40 days, the HACSD will ask HUD to send a third letter.
3. After an additional 40 days, the HACSD will send a warning letter, advising the family of the action to be taken if it does not contact the HACSD within two weeks.

If the participant claims a letter from HUD was not received:

1. The HACSD will ask HUD to send a second letter with a verified tenant address.
2. After 40 days, the HACSD will contact the family.
3. If the family claims it has not received a HUD letter, the HACSD will ask HUD to send a third letter.
4. After an additional 40 days, the HACSD will set up a meeting with the family to complete IRS forms 4506 and 8821.
5. If the family fails to meet with the HACSD or refuses to sign the IRS forms, it will be issued a warning letter indicating that termination proceedings will begin in one week if the family fails to meet with the HACSD and/or sign IRS forms.

If the participant does receive a discrepancy letter from HUD:

1. The HACSD will schedule a family meeting.
2. If the family fails to attend the meeting, the HACSD will reschedule the meeting.
3. If the family fails to attend the second meeting, the HACSD will send a termination warning.
4. The family must bring the original HUD discrepancy letter to the HACSD.
5. If tenant disagrees with the federal tax data in the HUD discrepancy letter, the family must provide documented proof of incorrect tax data.
6. If the family does not provide document proof of incorrect tax data, the HACSD will obtain proof of tax data using third-party verifications.

## **ITEMS TO BE VERIFIED**

[24 CFR 982.516]

- Reported family annual income and its source – both cash and non-cash
- Expenses related to deductions from annual income

- Student status for students, including high school students who are or who will be 18 years of age or over at the time of final initial or annual eligibility determination
- Current assets, including assets disposed of for less than fair market value in proceeding two years
- Childcare expenses if it allows an *adult* family member to be employed, go to school, or actively seek employment
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an *adult* family member to be employed
- Disability status for determination of preferences, allowances or deductions
- Elderly status for determination of preferences, allowances or deductions
- U.S. citizenship/eligible immigrant status for all family members, live-in aides, and foster children/adults
- Social security numbers for all family members six years of age or older who have been issued a social security number, or live-in aides
- "Preference" status
- Marital status when needed for head or spouse definition and to add a spouse to the household
- Verification of reduction in benefits for noncompliance in certain programs, such as GAIN sanctions of CalWORKs benefits
- Verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance for determination of imputed income
- Verification of participation in a federal, state or local training program that is generating income
- Verification of being the victim of domestic violence, dating violence, or stalking
- Verification of foster adults/children from the placement agency

## VERIFICATION OF WAITING LIST PREFERENCES

[24 CFR 982.207]

Residency Preference: This preference applies to families who live, work or have been hired to work in the jurisdiction of the HACSD. Acceptable documentation includes two or more of the following documents that indicate the current reported resident or employment address:

Rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voter's registration records, credit reports, bank statements, benefits award letter, or statement from household with whom the family is residing. If homeless, a lesser standard of documentation is acceptable.

Families who claim to work in the jurisdiction of the HACSD must provide an employer's verification and copies of pay stubs.

Families with Dependent Children Preference: To be eligible for this preference, the family must provide documentation that there are dependent children in the household or dependent children will be in the household once assistance is approved. A pregnant single person is no different than any other single applicant and is **not** considered a family with dependent children for admission preference purposes.

In most instances, self-certification is acceptable, unless there is reasonable doubt, in which case the HACSD will ask for further documentation of the placement of the children. This documentation of residence of the children may include:

School records  
Court custody documents  
Leases  
Welfare agency information  
Medical records

Veterans Preference: This preference is available to current members of the U.S. military armed forces, veterans (A veteran with a dishonorable discharge does not qualify for this preference.), or surviving spouses of veterans.

The HACSD will require U.S. government documents that indicate that the applicant qualifies under the above definition.

Working Preference: This preference is available to families with at least one member who is employed at the time of selection from the waiting list and has been employed an **average** of at least 32 hours per week at minimum wage or above for the last 12 months, or to families whose head or spouse is receiving income based on their inability to work. The HACSD will require a statement from the employer, and may require copies of pay stubs, federal income tax returns, or other documentation.

**Education/Training:** Participation in educational or training programs may be used to augment a shortage in the working requirement. The HACSD will require a statement from the agency or institution providing the education or training, indicating the time committed to the educational or training program for the last 12 months.

**Disability Preference:** This preference is available to families with a head of household or spouse who is a person with disabilities, as defined by HUD.

The HACSD will request appropriate documentation from a knowledgeable health professional. The HACSD will not inquire as to the nature of the disability but will ask a knowledgeable health professional to confirm that the person meets the HUD definition of disability.

Other acceptable documentation of disability is either an award letter, or proof of eligibility for social security disability or supplemental security income.

The HACSD may accept as a reasonable accommodation other credible evidence that the person meets the disability definition.

**Elderly Preference:** This preference is available to families with a head of household or spouse who is age 62 years or older.

The HACSD will require appropriate proof of age as verified by submittal of one or more of the following documents:

- Birth Certificate
- Passport
- Driver's License
- Resident Alien Card

**Homeless Preference:** The documentation requirement is less stringent for homeless households, given the absence of a permanent residence. A notarized self-certification is required if the homeless household cannot provide documentation of employment/residence in the jurisdiction of the HACSD. In addition to the notarized self-certification, documentation must be provided to demonstrate residence in the jurisdiction of the Housing Authority of the County of San Diego around the time of selection from the waiting list. Acceptable documentation includes the following:

- Driver's License
- Automobile Registration
- Documentation from San Diego County benefit provider

Receipts from stores, restaurants, motels, etc.

Special Local Preference for Homeless Applicants, Regional Taskforce on the Homeless agency members: The documentation is significantly more stringent for homeless households claiming a special local preference. In addition to the applicable documents listed above, documentation must include the PHA-approved referral documentation.

Special Local Preference for Victims of Domestic Violence in the HACSD's Public Housing: Verification is an original signed and dated referral letter from the HACSD's Public Housing administrator advising the intake Supervisor that the HACSD Public Housing family is eligible for a special local preference for selection from the HACSD's waiting list because a family member has been determined to be the victim of domestic violence.

Special Local Preference for Families that must be Relocated from the HACSD's Public Housing Unit: Verification is an original signed and dated referral letter from the HACSD's Public Housing administrator advising the intake Supervisor that the HACSD Public Housing family is eligible for a special local preference for selection from the HACSD's waiting list because the family must be relocated for a significant period of time.

## **VERIFICATION OF NON-FINANCIAL FACTORS**

### **VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the Housing Choice Voucher (HCV) program. VAWA gives PHAs the authority to terminate assistance to any individual who is a participant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual without evicting, removing, terminating assistance or otherwise penalizing the victim of such violence who is also a participant or lawful occupant. The PHA will, upon appropriate verification, terminate or deny the offender's program eligibility while allowing the victim to continue to be eligible for assistance. The victim must agree in writing to exclude the offender from the assisted unit and certify that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.

## **Definitions**

The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; the frequency of interaction between the persons involved in the relationship.

The term *stalking* means to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate, or to place under surveillance with the intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

The term *affiliated individual* means with respect to an individual: a spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in place of a parent), or any other individual, tenant, or lawful occupant living in the household of that victim of domestic violence, dating violence, sexual assault, or stalking.

The term *sexual assault* means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.

## **NOTIFICATION [24 CFR 5.2005(a)]**

### **Notification to Public**

The HACSD adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

The HACSD will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A copy of the notice of occupancy rights under VAWA to Housing Choice Voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380).
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation
- A copy of the HACSD's emergency transfer plan
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383
- The National Domestic Violence Hot Line: 1-800- 799-SAFE (7233) or 1-800-787-3224 (TTY)

**Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

- HACSD will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance.
- HACSD will provide all participants with information about VAWA at the time of admission and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

### **DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)].

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]: A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim. A federal, state, tribal, territorial, or local police report or court record, or an administrative record.

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bonafide incidents of abuse. The victim must also sign the documentation. The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting

Documentation,” nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by the PHA will be in writing. Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3) within 30 calendar days of the date of the request for third-party documentation. The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA proposes to deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

HACSD will honor any court orders issued to protect the victim or to address the distribution of property.

If presented with conflicting certification documents from members of the same household, HACSD will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, HACSD will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the HACSD does not receive third-party documentation within the required timeframe (and any extensions) HACSD will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, HACSD will hold separate hearings for the applicants or tenants.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

HACSD has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

If HACSD accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, HACSD must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as HACSD may allow, HACSD may deny relief for protection under VAWA.

### **CONFIDENTIALITY [24 CFR 5.2007(B)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

## **EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

### **Emergency Transfers**

HACSD 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), HACSD 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. The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the Public Housing and Housing Choice Voucher (HCV) programs are in 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 shall notify HACSD's management office and submit a written request for a transfer to HACSD. HACSD will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's 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.

### **Confidentiality**

HACSD will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives HACSD 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 or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

HACSD cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA 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 PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA 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.

### **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If a participant in the tenant-based HCV program requests an emergency transfer as described in this plan, the PHA will assist the participant with moving to a safe unit quickly using the existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required. Upon request, the PHA will offer referrals to other organizations which may be able to provide assistance.

Project-based assistance: Participants in the project-based voucher (PBV) program may request an emergency transfer under the following programs for which they are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

Participants may also request an emergency transfer under the following programs for which they are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- HOME TBRA program

Emergency transfers will not take priority over waiting list admissions for these programs. Upon request, HACSD will provide referrals to organizations which may be able to provide additional assistance.

### **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, and Incest National Network's National Sexual Assault Hotline at 1-800-656- 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>.

### **VERIFICATION OF LEGAL IDENTITY**

In order to prevent program abuse, the HACSD will require all household members, including live-in aides and adult foster children, to furnish verification of legal identity. All adult family members and live-in aides must provide picture identification. Acceptable picture identification may be a driver's license, California identification card, or school picture identification. Family members who turn 18 years of age must provide picture identification as of the next annual reexamination.

Copies of the birth certificates, Naturalization Certificates or Eligible Immigration documents for all family members must be on file. The following documents will be temporarily accepted as proof of identify, birth, and residency of assisted family members:

- Church-issued baptismal certificate
- Hospital birth certificate
- Department of Motor Vehicles identification card
- Current, valid driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Voter's registration
- Company/agency identification card
- Hospital records

For a live-in aide, the birth certificate or another document listed above must be provided to verify legal residency.

If a minor cannot provide a birth certificate, one of the following may be substituted temporarily:

- Adoption papers
- Hospital birth certificate
- Custody agreement
- Health and Human Services Identification
- School records

If none of these documents can be provided, a third party who knows the person may, at the HACSD's discretion, provide a notarized verification.

The family must take steps to order a birth certificate, provide proof that these steps were taken, and be given a deadline to provide a birth certificate. If the birth certificate cannot be obtained, the family must provide documentation as evidence as to why the birth certificate cannot be obtained, in which case the secondary documents will be accepted permanently.

If a document submitted by a family is illegible or otherwise questionable, more than one of the above documents may be required, or original documents must be brought in for review and verification, or a Systematic Alien Verification for Entitlements Program (SAVE) request may be made for questionable naturalization documents. The SAVE Program is administered by the U.S. Citizenship and Immigration Services (USCIS).

### **VERIFICATION OF AGE**

[24 CFR 982.516(a)(2)(iv)]

It may be necessary to verify age in order to determine eligibility for program admission, as well as to determine income and deductions. The HACSD will accept any official document that indicates age including:

- Birth certificate
- Proof of social security retirement benefits
- School records
- Driver's license

### **VERIFICATION OF MARITAL STATUS**

Marital status could affect the determination of total or adjusted income. For example, a working person under age 18 designated the spouse of the head of household would not have exempt wage income, or if a non-elderly or non-disabled head of household has an elderly or disabled spouse, that family would be designated an elderly or disabled household.

Generally, certification by the family is sufficient verification. However, if there is reasonable doubt about a marital relationship, the HACSD will require the following documentation:

Verification of divorce status will be a certified copy of the divorce decree, signed by a court officer.

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

Verification of marriage status may include a marriage certificate, marriage license, or on-line data confirmation from public records.

### **FOSTER CHILDREN/ADULTS**

The HACSD will verify the status and placement of temporary and permanent foster children/adults in the household by obtaining the following document:

Third-party verification from the state or local government agency responsible for the placement of the individual with the family

The verification must include name, address, telephone number and contact name and telephone number of the placement agency; and, name, date of birth, social security number, the estimated length of placement, the residency status, and type and monthly amount of benefits of the foster adult/child.

A foster adult must sign the necessary consent forms to verify criminal history.

### **FAMILIAL RELATIONSHIPS**

[24 CFR 982.516(A)(2)(IV)]

The relationship of household members may affect the determination of adjusted income and must be verified. A family certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required, if applicable:

Verification of relationship:

Official identification showing names

Birth certificates

Baptismal certificates

Verification of guardianship is:

Court-ordered assignment  
Notarized affidavit of parent  
Verification from social services agency  
School records

### **VERIFICATION OF PERMANENT ABSENCE OF FAMILY MEMBER**

If an adult member, formerly a member of the household, is reported permanently absent by the family, the HACSD will generally accept certification by the family of that family member's absence. If the HACSD has reasonable doubt about the absence of the family member, one or more of the following documents will be required as verification:

Documentation of legal separation (required in order to exclude income of absent spouse).

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, lease, rental agreement, automobile registration, mail at new address, or credit report reflecting new address, 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 a family member is incarcerated, a document from the court or correctional facility stating how long s/he will be incarcerated.

Verification from a medical professional if a family member is confined to a nursing home or hospital on a permanent basis.

The HACSD will accept a notarized self-certification, signed under penalty of perjury, from the head of household, or the spouse or co-head, if the head is the absent member.

### **VERIFICATION OF CHANGE IN FAMILY COMPOSITION**

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

## **VERIFICATION OF DISABILITY**

Verification of disability may be obtained from documentation of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)). For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. As a reasonable accommodation to a person with disabilities, other credible evidence may also be accepted if it is determined that, due to the nature of the disability, the disabled person is unable to seek or maintain a relationship with a knowledgeable professional for sufficient time to allow the professional to develop an opinion or diagnosis.

## **VERIFICATION OF CITIZENSHIP/ELIGIBLE IMMIGRANT STATUS**

[24 CFR 5.508, 5.510, 5.512, 5.514]

A live-in aide's legal residency will be confirmed through documents. The legal residency of foster children/adults will be verified with the placement agency.

The HACSD will require citizens to provide documentation of citizenship, such as a birth certificate, passport, or naturalization papers.

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals, who cannot demonstrate legal residency, may elect not to contend their status. Eligible immigrants are persons who are in one of the HUD-specified immigrant categories and must have their status verified by the U.S. Citizenship and Immigration Services (USCIS). For the citizenship/eligible immigration requirement, the status of each member of the family, except live-in aides and foster children, is considered individually before the family's status is defined. Each family member must declare his/her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending, except that assistance to applicants may be delayed while the HACSD hearing is pending.

For this eligibility requirement only, the applicant is entitled to an informal hearing and not an informal review. The following determinations are made based on the verification of family status:

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.

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

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

Eligible Immigrants aged 62 or over are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form, with the exception of live-in aides and foster children/adults, and all household members including live-in aides, must provide original immigration documents. Front and back copies are retained and the original immigration documents are returned to the family. The HACSD verifies the eligible immigration status through the USCIS SAVE system. If the initial search fails to verify status, the HACSD will request, within 10 days, that the USCIS conduct a second manual search. If the documents have an expiration date, the applicants/participants must provide either a current document or an USCIS screen print of their current status.

Ineligible assisted 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.

Non-citizen students on student visas as described in 24 CFR 5.522 are ineligible members, even though in the country lawfully. They must provide their student visa, but their status will not be verified. They do sign a declaration, but they 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 and/or provide current documents or an USCIS status screen print, as required, s/he must be listed as an ineligible member. If the entire family fails to provide and sign documents as required, the family may be denied or terminated for failure to provide required information. A live-in aide will be prohibited admission to the household to serve as a live-in aide if the live-in aide fails to provide documentation of legal residency.

### **Time of Verification**

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

The HACSD will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of at least one member of the family.

The HACSD will verify the U.S. citizenship/eligible immigration status of all participants, no later than the date of the family's first annual reexamination following the enactment of the Quality Housing and Work Responsibility Act of 1998.

For family members added after other members have been verified, the verification must take place prior to the new member's addition to the household.

Once verification of eligible immigration status has been completed for any program participants, it need not be repeated, except for port-in families if the initial PHA does not supply the documents.

### **Extensions of Time to Provide Documents**

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

### **Acceptable Documents of Eligible Immigration**

The regulations stipulate only the following current documents are acceptable, unless changes are published in the Federal Register. These documents must be current and are subject to the limitations and additional requirements described in Chapter 5 of the HUD Housing Choice Voucher Guidebook.

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

The HACSD will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

<b>SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]</b>	
<ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b>	
<ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<b>All other Noncitizens</b>	
<ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	
<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following:                             <ul style="list-style-type: none"> <li>• "Admitted as a Refugee Pursuant to Section 207"</li> <li>• "Section 208" or "Asylum"</li> <li>• "Section 243(h)" or "Deportation stayed by Attorney General"</li> <li>• "Paroled Pursuant to Section 221 (d)(5) of the USCIS"</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by:                             <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".</li> </ul>
<ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or</li> <li>• Other acceptable evidence: If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	

**VERIFICATION OF SOCIAL SECURITY NUMBERS**

[24 CFR 5.216 and PIH Notice 2012-10]

Applicants:

Each applicant must provide complete and accurate social security numbers and documentation necessary to verify the social security number (SSN) as a condition of eligibility for all family members, regardless of age, who have been issued a social security number.

Assistance will be denied if the applicant does not meet the applicable SSN disclosure, documentation, and verification requirements. However, if the family is otherwise

eligible to participate in the program, the family may maintain his/her position on the waiting list for 180 days.

Participants:

Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must provide a complete and accurate social security number and documentation necessary to verify the SSN, as a condition of continued eligibility for all family members, regardless of age, who have been issued a social security number, at their next interim or regularly scheduled reexamination or recertification of family composition or income if the participant has:

Not previously disclosed a SSN;

Previously disclosed a SSN that HUD or the SSA determined was invalid; or

Been issued a new SSN

The family's assistance will be terminated if the participant does not meet the applicable SSN disclosure, documentation, and verification requirements.

The HACSD may defer termination and grant an extension of additional 90 calendar days to disclose a SSN, but only if the HACSD, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant; and there is a likelihood that the participant will be able to disclose a SSN by the deadline. If, upon expiration of the provided time period, the participant fails to produce a SSN, the family's assistance will be terminated.

Verification of Social Security Numbers:

Verification of social security numbers will be done through a valid social security card issued by the Social Security Administration. If a family member cannot produce a social security card, the documents listed below may be accepted for verification. The family may be required to certify in writing that the document(s) submitted in lieu of the social security card is/are complete and accurate:

An original SSA-issued document, which contains the name and SSN of the individual

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The HACSD may reject documentation of the SSN provided if:

The document is not an original document.

The original document has been altered, mutilated, or not legible.

The document appears to be a forged document (i.e., does not appear to be authentic)

Additions of New Household Members:

New family members, regardless of age, who have an assigned SSN, will be required to produce their valid social security cards or other acceptable documentation, as outlined above. This information must be provided at the time of the request, or at the time the HACSD adds the new family members to the household. If the family is unable to provide the required documentation of the SSN, the HACSD will not add the new household member until the family provides such documentation.

New family members under the age of six who have not been assigned a SSN will be required to produce their valid social security cards or other acceptable documentation, as outlined above, within 90 calendar days of the child being added to the household. The HACSD may grant an extension of one additional 90-day period to comply with the SSN disclosure and documentation requirement if the HACSD, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the family. The child will be included as part of the assisted household and entitled to all benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. If, upon expiration of the provided time period, the family has not complied with the SSN disclosure and documentation requirements, the family's assistance will be terminated.

The requirements of this section apply to applicants and participants as described in this section, except that this section is inapplicable to individuals who do not contend eligible immigration status.

If the family member states s/he has not been issued a social security number by the SSA, the family member will be required to make such declaration in writing and under penalties of perjury.

**NEED FOR LARGER UNIT OR A LIVE-IN AIDE**

The family request for a larger voucher must be in writing and must clearly explain the need or justification for a larger voucher. If the request is for a reasonable accommodation for a person with a disability, it must explain what about the additional bedroom will allow the person with disabilities better access to the program. If the request is for a live-in aide, it must explain why a live-in aide will be essential for the

care and well-being of an elderly, near elderly person or a person with disabilities. The HACSD must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8 to make the program accessible to and usable by a family member with disabilities.

Requests for an extra bedroom for a live-in aide must be supported by verification from a health care provider who documents the medical need for the live-in aide. A live-in aide would use the assisted unit as their primary residence; that is, one aide for around the clock care. Occasional, intermittent, multiple or rotating care-givers typically do not reside in the unit and would not qualify as live-in aides; therefore, an additional bedroom will not be approved for a live-in aide under these circumstances. [Notice PIH 2010-51; PIH 2012-33; PIH 2014-25]

If a live-in aide is approved as a reasonable accommodation on a temporary basis, the HACSD will require an annual recertification to verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability continue to require the live-in aide.

## **INCOME**

[24 CFR 5.609]

The HACSD will verify and anticipate monetary and in-kind income as accurately as possible by reviewing all verifications and using the most accurate reflection of income for the next 12 months.

For admission, an unborn child is not considered when determining the income limits. For example, a pregnant single person is considered a one-person household when determining the income limits. To determine if the family is income-eligible for admission, the HACSD compares the annual income of the family to the applicable income limit for the family's size. Newly admitted families who exercise portability prior to receiving initial assistance must be within the applicable income limit of the receiving PHAs. This requirement does not include those who had been participants with the initial PHA.

Families whose annual income exceeds the income limit will be denied admission, removed from the waiting list, and offered an informal review.

Income: Includes all amounts, monetary or not, received on behalf of the family. HUD defines what is counted and excluded in determining the total tenant payment (TTP). In accordance with this definition, all income meeting the customary definition of income, not specifically excluded in the regulations, is counted.

Annual Income: Includes all amounts, monetary or not, which go to or on behalf of

the family head or spouse (even if temporarily absent) or to any other family member; or are anticipated to be received during the 12 months following admission or annual reexamination effective date; and which are not specifically excluded. Annual income also means amounts derived during the 12-month period from assets available to any family members.

Annual income includes, but is not limited to:

The full amount, before any payroll deductions, of wages, salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

The net income from the operation of a business or profession;

Interest, dividends, and other net income of any kind from real or personal property;

The full amount of periodic amounts from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, or any other similar types of periodic receipts;

Payments in lieu of earnings, such as unemployment, disability, workers' compensation, and severance pay;

Welfare assistance payments (Please note that the amount specifically designated for shelter and utilities is excluded);

Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received by organizations or persons not residing in the dwelling;

All regular pay, special pay and allowances of a member of the Armed Forces (except as excluded);

Financial assistance received by persons in certain categories.

Gross income is the amount of income prior to any HUD allowable expenses or deductions or state and local taxes and deductions, and does not include income excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits. Wages for full-time employment are anticipated for a full 52 weeks, unless documentation is provided that wages will not be earned for the full year.

Annual income may be anticipated using the previous year's income, rather than current income, if that is the most accurate reflection of the next year's income. A

clear rationale must be documented to support the methodology used for the calculation of income.

### **AVERAGING INCOME**

When annual income cannot be anticipated for a full 12 months, the HACSD may use one of the following methods to calculate annual income:

Average known sources of income that vary to eliminate interim adjustments

Annualize current income and conduct an interim adjustment when it goes down

Use prior year's income information to anticipate the following year

Average employer's year-to-date income information

For regularly received bonuses and/or commissions, the HACSD will verify and then average amounts received for the previous year, unless the family can provide credible documentation indicating the historical information is incorrect.

CalWORKs benefits shall be anticipated as follows: use the higher of either a six-month average (from the current month back) vs. the current month's benefit, which is then multiplied by 12. If the circumstances of the family have changed; such as a child has turned 18, a recipient is absent from the household, or in the case of documented income change; and the anticipated benefit used is not the higher of a six-month average or current month's benefit, the file will be documented to explain the reason. The future month's benefit is not considered, as it may change.

The method used depends on the regularity, source and type of income.

### **AMOUNTS THE HACSD HAS DETERMINED DO NOT MEET THE DEFINITION OF INCOME**

#### Employer Reimbursement of Mileage Expenses

Employer reimbursement for mileage expenses for use of a personal vehicle is not considered income as long as the reimbursement is reasonable as compared to the Internal Revenue Service (IRS) mileage rate. Mileage logs may be required. The amount of the mileage reimbursement that exceeds the standard rate will be counted as income.

#### Loans

Loans to a participant/applicant from an institution are not considered income. However, "loans" from private parties **are** considered income if it is apparent there is little likelihood the loan will be repaid within the next three years; loans from the

previous year have not been repaid; and if there was no written, well-defined notarized loan repayment agreement executed at the time the "loan" began.

Repayment of a loan back to the applicant/participant is not considered income if documentation can be presented that the loan was made by the applicant/participant to the person repaying the loan. If no documentation is provided, the "repayments" are considered income. Repayments back of a loan made by the assisted household must be documented as follows in order to not count the payments as regular contributions to the family:

Bank statement withdrawals indicating the assisted household made the loan.

Cancelled checks indicating the amount of the loan and to whom the loan was paid.

Notarized loan repayment agreement executed around the time the loan was made, with the terms and amount of the loan.

#### Employer Contributions to a Flexible Spending Account

Employer contributions to a flexible medical or childcare expense account are not considered income as long as the money is only accessible to the family as reimbursement for out-of-pocket medical or childcare expenses. However, childcare or medical expenses will not be allowed as a deduction if they are reimbursable through a flexible employer contribution account.

Documentation regarding the requirements of the account may be required.

#### **EXCLUDED INCOME**

[24 CFR 5.609(c), PIH NOTICE 2013-03]

Excluded income need only be verified to the extent necessary to determine whether the income is to be excluded. Per PIH Notice 2013-03 for fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds). In this case, the amount of excluded income is based on information provided by the family. However, earned income disallowance income must be verified because it is only partially excluded, and the income amount must be correct to determine the amount of the incremental income increase.

Exclusions include the following:

- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses (special equipment, transportation, childcare, etc.) incurred and which are made solely to allow participation in a specific program.
- Temporary, non-recurring, or sporadic income (including gifts). Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19]. Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.
- 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).
- Amounts received under a resident service stipend. A resident service stipend is an amount not to exceed \$200 per month received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one service stipend during the same period of time.
- 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.
- The full amount of Student Financial Assistance paid directly to the student or to the educational institution, unless the student is in a category that requires the financial assistance to be counted as income.
- Income of a live-in aide. (All non-dependent family members' income will be counted).
- Adoption assistance payments in excess of \$480 per adopted child.
- Refunds or rebates on property taxes paid on the dwelling unit.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Earned income from employment of children (including foster children) under the age of 18.

- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Lump sum additions to family assets, such as inheritances, insurance payments, capital gains, and settlement for personal or property losses.
- Amounts received under HUD-funded training programs.
- Incremental earnings and benefits increase as a result of participation in a state or local training program.
- Payments received for the care of foster children or foster adults. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].
- A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Eloise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- Financial Assistance received through the Veterans Retraining Assistance Program (VRAP)
- Amounts specifically excluded by any other federal statute. HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.)
- (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (l) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (p) Payments received under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spina bifida

- (q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (s) Assistance under Section 1780 of the School Lunch Act and the Child Nutrition Act of 1966, including WIC
- (t) Payments from the Seneca Nation Act of 1990
- (u) Payments from any deferred Department of Veterans Affairs disability benefits that are received in lump sum amount or in prospective monthly amounts
- (v) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency or indemnity compensation in programs authorized under the Native American Housing Assistance and Self-Determination Act of 1966
- (w) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (x) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusions from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (y) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

**EARNED INCOME TAX CREDIT**

[24 CFR 5.609 (c)(17)]

Earned income tax credit refund payments are excluded from annual income. This tax credit may be paid once a year upon filing federal income tax forms, or it may be reflected on the employee's payroll check throughout the year.

## **LUMP SUM PAYMENTS**

[24 CFR 5.609]

The policy of the HACSD is to not calculate retroactive tenant rent the family owes as a result of the lump sum receipt, as long as the family reported the income in a timely manner. With the exception of lump sum retroactive social security/supplemental security income, if the family fails to report the income within 14 days, the HACSD may calculate an overpayment, and/or hold a tenant integrity conference to advise the family of possible repercussions if it fails to abide by the HACSD program obligations.

Lump-sum payments caused by delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income; however, the HACSD generally (except for zero/minimal-income families) evaluates income increases at the annual reexamination and any lump sum income received prior to the annual reexamination would not be counted. The remaining balance would be counted as an asset.

Lump sum payments from social security or Supplemental Security Income (SSI) are excluded from income, but any amount remaining will be considered an asset. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08]. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

## **Attorney Fees**

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

## **DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES**

[24 CFR 5.617; 982.201(b)(3), Streamlining Final Rule Federal Register 3/8/16]

This benefit is allowed once per family member in a lifetime. The benefit is for program participants – not new admissions. This benefit is only applicable to participants on the following programs: HOME Investment Partnerships Program, Housing Opportunities for Persons with AIDS, Supportive Housing Program, and the Housing Choice Voucher Program.

The annual income for qualified 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 continuing for a cumulative 12-month period. After the disabled family member receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income which has been excluded from the annual income.

A family receiving tenant-based rental assistance under one of the applicable programs qualifies for the earned income exclusion if one of the three conditions applies:

The annual income increases are 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; *or*

The annual income increases are 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*

The annual income increases are a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies, and transportation assistance.

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

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

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

The amount of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance.

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 income of the family member with disability to the period 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. Exempt income may never exceed the amount of employment income.

The disallowance is initially applied as of the first of the month following the income increase. An interim may be necessary to properly apply the initial and phase-in exclusion periods and to remove the exclusion.

### **Initial 12-Month Exclusion**

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed, or the family first experiences an increase in annual income attributable to employment, the HACSD 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 12-Month Exclusion and Phase-in**

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

### **Maximum Disallowance**

For participants qualifying prior to May 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 income 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 beyond 48 months following the initial date the exclusion was applied.

For participants qualifying on or after May 9, 2016, the earned income disallowance is limited to a lifetime disallowance period of 24 consecutive months.

### **Applicability to Childcare Expense Deductions**

The maximum childcare expense deduction allowed cannot exceed the amount earned by the person enabled to work whose income is actually included in the family's annual income.

### **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. Interims will be performed if necessary to accurately calculate full, phase-in, and end of exclusion periods.

A form in the tenant file or in a computerized database will track:

The date the increase in earned income was reported by the family

The effective date the income was first excluded from annual income for the initial cumulative 12-month period of exclusion

The name of the family member whose earned income increased

The reason (new employment, participation in job training program, within six months after receiving TANF) for the increase in earned income

The amount of the increase in total income due to earned income (amount to be excluded)

The date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)

The date the family member has received a total of 12 months of the initial exclusion

The date the second 12-month phase-in period began

The date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)

The date the family member has received a total of 12-months of the second phase-in exclusion

The ending date of either the maximum 48-month (four-year) disallowance period (48 months from the date of the initial earned income disallowance) or the maximum 24-month (two-year) disallowance period. The maximum lifetime period is dependent on when the participant qualified for the disallowance.

The earned income disallowance is only applied to determine the annual income of family members with disabilities in 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).

**DISALLOWANCE OF INCOME RESULTING FROM LOCAL, STATE OR HUD-FUNDED TRAINING PROGRAM**

[24 CFR 5.609(c)(8) (I)]

All amounts received under training programs funded by HUD are excluded, as are amounts received by a family member for resident manager training. Eligible sources of funds for HUD-funded training programs include Public Housing operating subsidy, Section 8 administrative fees, Public Housing Capital/modernization funds, Community Development Block Grants (CDBG), HOME program funds, or other grant funds distributed by HUD.

The incremental increase in earnings and benefits is exempt income if the income is a result of any family member participating in a qualifying state or local employment-training program, including programs not affiliated with a governmental agency, as long as they have clearly defined goals and objectives.

A training program (for HUD-funded, state or local programs) is defined as "a learning process with goals and objectives generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. It will also include on-the-job training programs that provide participants "real life" job experiences. Training may include, but is not limited to: (1) classroom training in a specific occupational skill; (2) on-the-job training with wages subsidized by the program; or, (3) basic education."

Incremental earnings and benefits are defined as, "the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings after and as a result of enrollment in the program."

Documentation to verify these exclusions includes third-party verification or documentation describing the program and the funding source.

Pre-enrollment income will be the income received prior to receipt of income from the training program.

**FOSTER CARE INCOME**

[24 CFR 5.609 (C) (2)]

All income received for the care of foster children or foster adults is excluded from annual income.

**KIN-GAP INCOME**

[PIH NOTICE 2012-1]

California Kinship Guardian Assistance Payments (Kin-GAP) income is excluded from annual income. These children are considered regular family members and not foster children.

**ADOPTION ASSISTANCE**

The first \$480 of Adoption Assistance is included in annual income. The remaining Adoption Assistance is excluded income. The dependent for whom the adoption assistance is paid is given a \$480 dependent allowance.

**STUDENTS**

The "Student Eligibility Checklist" must be completed and retained in the file for all students 18 years of age and older.

With the exception of the head, spouse or co-head, only the first \$480 of earned income of each household member, 18 years of age or older, who is a full-time student will be counted towards family income. All earned income of the head, spouse, or co-head full- or part-time student is included in annual income.

School expenses, including mileage are not allowable deductions.

Verification of full-time student status includes:

Written verification from the registrar's office or other school official

School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution

Copy of student's registration information, indicating the semester, and the number of credits taken

The family may be required to provide verification of completion of classes to verify that the student maintained his/her full-time student status. If the full-time student did not maintain his/her full-time status and assistance was overpaid, an overpayment agreement will be calculated and executed.

School financial assistance, scholarships, work-study (federal, state, or local), and grants received by full- or part-time students are excluded income, unless the income must be counted as family income as indicated below:

### **Athletic Scholarship**

The housing costs component of an athletic scholarship is counted as income.

### **Student Eligibility and Financial Aid Included in Annual Income**

[24 CFR 5.609(b)(9), PIH Notice 2015-21]

In accordance with 24 CFR 5.609 (b)(9), unless a student applying for assistance or receiving assistance on his/her own, including the head of household, spouse, or co-head, is over the age of 23 with a dependent child, or residing with parents receiving or eligible to receive Section 8 assistance, all financial aid (excluding loans) that exceeds the cost of tuition, is **counted** as income if it is from the following sources: (a) amounts received under the Higher Education Act of 1965, such as Pell Grants and Federal Work Study; (b) amounts received from a private source, such as an individual, a trust, or a corporation; (c) amounts received from an institution of higher education, as defined under the Higher Education Act of 1965; (d) other financial aid, such as amounts received for veterans under the G.I. Bill.

A student, including the head of household, spouse, or co-head, 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) is not eligible for initial or continued assistance, unless s/he is:

Married

Residing with parents applying for or receiving Section 8 assistance

A handicapped person receiving assistance on or before November 30, 2005

A veteran

Responsible for a dependent child

Over the age of 23

Independent Student

## **Definitions for Student Rule:**

### ***Married***

Refer to definition elsewhere in this plan.

### ***Parents***

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

### ***Veteran***

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

### ***Responsible for a dependent child***

A dependent child means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children/adults are not considered dependents.

### ***Independent Student***

The student is of legal contract age under state law

The student has established a household separate from his/her parents for at least one year prior for application to Section 8 or the individual meets the U.S. Department of Education's definition of independent student.

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

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

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

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

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

- Be a graduate or professional student

Be married

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

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

### ***Determining Parental Income***

The income of the parents of a non-independent student will be counted to determine income eligibility based on a written certification, under penalty of perjury, completed by the parents. The HACSD will determine the income eligibility of the non-independent student's parents as follows:

If the student's parents are married and living together, the HACSD will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, the HACSD will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, the HACSD will obtain an income declaration and certification of income from each parent.

If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the HACSD will require the student to submit a certification describing the circumstances and stating that the student does not receive financial assistance from the other parent. The HACSD will then obtain an income declaration and certification of income from the parent with whom the student has been living.

The HACSD will use the income limits that apply where the parent with the highest income lives.

### **EMPLOYMENT INCOME**

Verification forms may request the employer specify the:

Dates of employment

Amount and frequency of earnings

Date of last pay increase

Earning history

Year-to-date earnings

Expected change in employment status

Effective date of any anticipated wage increase during next 12 months

Estimated income from overtime, tips, and bonus pay expected during next 12 months

Anticipated unpaid time off

Acceptable methods of verification include:

Employment verification form completed by the employer

Check stubs or earning statements, 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

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.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service (IRS) for verification of income, if there is evidence income has not been reported.

In cases with questions about the validity of information provided by the family, the HACSD may require the most recent federal income tax statements or send a referral to the IRS.

### **BONUSES AND/OR COMMISSION**

For regularly received bonuses and/or commission, the HACSD will verify and average amounts received for one year preceding admission or reexamination, unless the family can provide credible documentation indicating the historical information is incorrect.

### **MINIMAL OR ZERO INCOME**

There is no minimum income requirement. However, families who report zero or minimal income are required to complete a written certification every 30 days, and provide copies of expense receipts for the 30-day period. The HACSD will conduct an interim to increase the family's rent share upon reinstatement of income.

The family may be required to provide documentation to prove that income, such as unemployment benefits, TANF, SSI, etc., are not being received.

The HACSD may request information from the state employment development department.

The HACSD may run a credit report on the family.

The HACSD may require a family's notarized self-certification, signed under penalty of perjury, stating that it has no income, and explaining how it expects to meet its needs.

### **REGULAR CONTRIBUTIONS AND GIFTS**

[24 CFR 5.609]

Regular, non-casual contributions and gifts received from persons outside the assisted household are counted as income. This includes regular contributions from a live-in aide or foster child residing with the family. This includes rent and utility payments made on a regular basis on behalf of the family and other regular cash or non-cash contributions. It does not include casual contributions or sporadic gifts.

A family benefit that is used exclusively by the family, but not titled to the family (i.e., automobile, storage unit), will be counted as in-kind income. The income would include insurance, car payments, maintenance, and other vehicle expenses that are regularly paid by someone outside of the assisted household.

If an employer provides an automobile that is used for both personal and business purposes, a prorated amount of the vehicle expense payments (insurance, registration, car payments, etc.) will be counted as income. This proration will be based on the percentage of time the vehicle is used for personal purposes. Evidence of a business vehicle used for personal purposes may include the vehicle being stored overnight at the family's residence at least five days a week and the lack of a personal vehicle for that family member.

If the family's expenses exceed its reported income, the HACSD will inquire of the family regarding contributions and gifts.

The family must furnish a self-certification with 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

## **SOCIAL SECURITY, PENSIONS, SUPPLEMENTARY SECURITY INCOME (SSI), DISABILITY INCOME**

HACSD conducts a streamlined reexamination of income for elderly families and disabled families when 100 percent of the family's income consists of fixed income. HACSD will recalculate family incomes by applying any published cost of living adjustments to the previously verified income amount.

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

1. Social security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
2. Federal, State, local, and private pension plans; and
3. 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.

### Social Security and Supplemental Security Income

In compliance with PIH 2004-18 (HA) issued on September 17, 2004, the HACSD will no longer request third-party benefit income for the Social Security Administration. The HACSD will verify income in the following ranking order:

EIV Systems

Benefit notice dated within the last 60 days

To verify the SS/SSI benefits of applicants, the HACSD will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's web site at [www.socialsecurity.gov](http://www.socialsecurity.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter, they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will help the participant request a benefit verification letter from SSA's web site at [www.socialsecurity.gov](http://www.socialsecurity.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

If the social security statement indicates a reduced social security benefit due to rounding, the rounded amount shall be counted. If the social security statement indicates a deduction for Medicare, the Medicare payment amount will be added to the net benefit for the countable income.

#### Other Benefit Income

Acceptable methods of verification include:

- Benefit verification form completed by agency providing the benefits

- Award or benefit notification letters prepared and signed by the providing agency

- Computer report electronically obtained or in hard copy

- Pay stubs

- Bank statements that reflect direct deposits

#### **UNEMPLOYMENT COMPENSATION**

Acceptable methods of verification include:

- Unemployment compensation agency verification form

- Unemployment office computer report e-mailed, faxed, or in hard copy.

- Payment stubs.

- Agency award letter

#### **ALIMONY AND CHILD SUPPORT**

[24 CFR 5.609]

Regular alimony and child support payments are counted as income. Not generally included in annual income are irregular or lump sum child support payments, as is the case with other irregular or lump sum income.

If the amount of child support or alimony received is less than the amount awarded by the court, the HACSD will use the amount awarded by the court, unless the family can verify it is not receiving the full amount and can demonstrate that an effort was made to collect the amount awarded. Child support or alimony payments in arrears that are being received on a regular basis are included in annual income.

The HACSD will accept verification that the family is receiving an amount less than the award if:

The family furnishes documentation of a child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

The HACSD may accept a notarized family certification in writing, under penalty of perjury, that states it is not receiving the full amount of alimony or child support, explains why it cannot provide the documentation outlined in the previous paragraph, and describes a reasonable effort to collect.

It is the family's responsibility to supply a certified copy of the divorce decree.

Acceptable methods of verification include:

Copy of a separation, or settlement agreement, or a divorce decree, stating amounts and types of support and payment schedules

A signed and dated letter from the person paying the support

Copy of latest check and/or payment stubs from court trustee (HACSD must record the date, amount, and number of the check.)

Family's notarized self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received

If payments are irregular, the family must provide:

A copy of the separation, or settlement agreement, or divorce decree, stating the amount, type, and payment schedule of the settlement

A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement

A notarized affidavit from the family, signed under penalty of perjury, indicating the amount(s) received

A welfare notice of action showing amounts received by the welfare agency for child support

### **SELF EMPLOYMENT INCOME**

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

Net income from a business or profession must be included in annual income. However, capital expenditures, such as the purchase of a vehicle, are not allowed as an expense deducted from gross business income. The principal part of loan repayments for a capital expense is not an allowable income deduction. Interest payments are an allowable business expense. If the business has a loss, that loss may not be deducted from other income. Loans or contributions to the business will not be counted as income, nor will the repayment of a loan from the family be counted as income.

If the business is co-owned with someone outside the family, the family must provide documentation demonstrating its share of the business as a percentage of the business partnership agreement.

In order to verify the net income from self-employment/business ownership, the HACSD will view the IRS federal income tax return, and financial documents from prior years, and use this information to anticipate the income for the next 12 months.

The family **must** provide a copy of its prior year's federal income tax return, if it was filed.

Acceptable methods of verification include:

IRS Form 1040, including:

Schedule C (Small Business)

Schedule K-1 (Partnership)

Schedule E (Rental Property Income)

Schedule F (Farm Income)

Financial statement(s), either audited or not audited, of the business

Credit report or loan application

Business Ledgers

Family's self-certification as to net income realized from the business during previous years

The HACSD may also request documents to support submitted financial statements, such as completed manifests, appointment books, cash journals, or bank statements.

It is the family's responsibility to provide documentation of income and expenses in good order with everything organized, recorded and totaled. The HACSD will reject

documentation that has not been organized and totaled; e.g., an unorganized bundle of receipts.

### **CHILD CARE BUSINESS**

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

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

The family **must** provide a copy of its federal income tax return, if it was filed.

The family must indicate if it is receiving a food allowance or other compensation to offset business expenses. Third-party verification will be requested if another public entity, such as HHSA, is providing compensation to the childcare provider.

If none of the above documents is available, the family may provide a notarized self-certification, signed under penalty of perjury, as to gross income received the previous year, as well as anticipated gross income for the next year.

### **WELFARE PAYMENTS OR GENERAL ASSISTANCE**

Acceptable methods of verification include:

HACSD verification form completed by payment provider:

Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months

Computer-generated, faxed, or hard copy notice of action

Computer-generated list of recipients from welfare department.

Direct on-line access to welfare department database

## **INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

[5.615]

The HACSD will impute (count) welfare income not received by the family, if the welfare assistance was reduced specifically because of:

Fraud by a family member in connection with the program

Failure to participate in an economic self-sufficiency program

Noncompliance with a work activities requirement

Imputed welfare income is annual income the family would have received, had its benefits not been reduced due to the above circumstances. This imputed income would be counted in determining the TTP.

Imputed welfare income is not included in the family's annual income, if the family was not assisted at the time of the welfare sanction.

The amount of imputed welfare income is offset by the amount of additional family income received after a sanction was imposed.

If the additional family income equals the imputed welfare income, imputed welfare income is not counted.

The HACSD will not impute welfare income, if the welfare assistance reduction is the result of:

The expiration of a lifetime time limit on receiving benefits

The family has not complied with other welfare agency requirements not outlined above

The family member has complied with welfare agency economic self-sufficiency requirements or work activities requirements, but cannot, or has not, obtained employment. For example, the family member has complied with welfare program requirements, but the family has exceeded the maximum time it is allowed to receive benefits, resulting in a loss of benefits.

## **Verification Before Denying a Request to Reduce Family Rent**

The HACSD will obtain a written, faxed, computer, or telephone verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency/work activities requirements, before

denying a family's request for reduction of family rent. The requested verification from the welfare agency must state the amount, term, and reason for the benefit reduction.

### **Cooperation Agreements**

The HACSD has a cooperation agreement in place with the local welfare agency. The HACSD has access to the welfare agency's database and can search welfare participant records. In addition, the HACSD has a verbal cooperation agreement with the local welfare agency for verbal confirmation of a family's sanction status.

### **Family Dispute of Amount of Imputed Welfare Income**

If the family disputes the amount of imputed income and the HACSD denies the family's request to modify the amount, the HACSD will provide the tenant with a notice of denial, which will include:

- An explanation for the HACSD's determination of the amount of imputed welfare income

- Opportunity to request an informal hearing

## **ASSETS**

[24 CFR 5.609; 982.516]

There is no asset limitation for participation. However, all interest, dividends and other net income of assets, which include real or personal property, must be included in annual income [24 CFR 5.609(b)(3)]. The family must sign a declaration form initially and at least annually declaring all assets under the control of the family and those assets disposed for \$10,000 or more under fair market value during the last two years.

The HACSD will generally use current circumstances to determine both the value of an asset and the anticipated income from the asset. If current circumstances are not used to determine the asset income, a clear rationale for the decision will be documented in the file. The family may present information and documentation to show why the asset income determination does not represent the family's anticipated asset income.

Total assets will be counted, even if jointly owned by someone not part of the family, providing a family member has unlimited access to those assets. If the family has restricted access to those assets, the HACSD will prorate the family's asset share based on percentage of ownership. If there is no percentage of ownership, the HACSD will prorate the family's asset share evenly among all owners.

Fifty percent of the assets held by the absent spouse of a family member will be considered family assets, unless there is legal documentation that indicates that the assisted family has no current or future legal right to the assets of the absent spouse.

Assets not controlled by or accessible to the family, such as assets held in trust by an outside trustee, will not be counted or considered. If there are disbursements to the family from these assets, depending on their regularity, they may either be counted as income or lump sum additions to family assets. Personal property, such as clothing, automobiles, and furniture will not be counted as assets, unless the personal property is an investment, such as a stamp collection, in which case the family's declaration of the investment's value will be used to determine the asset amount.

The HACSD will request third-party verification to determine the current cash value of the family's assets, if the total value of those assets exceeds \$5,000. "Cash value" is the net amount the family would receive if the assets were converted to cash. Assets totaling \$5,000 or less will not be verified with third-party verification each year because of the negligible impact on the HAP amount and family rent, although that asset, as reflected on family provided documentation, will be reflected in the family's asset calculations.

The HACSD will accept a family's declaration of the amount of assets of less than \$5,000, and the amount of income expected to be received from those assets. The application and reexamination documentation, which is signed by all adult family members, will serve as the declaration. Where the family has net family assets equal to or less than \$5,000, HACSD does not need to request supporting documentation (e.g., bank statements) each year from the family to confirm the assets or the amount of income expected to be received from those assets. The HACSD will obtain third-party documentation of all assets regardless of the amount during the intake process and at least every three years thereafter [24 CFR 982.516(a)(3)(ii)]. Where the family has net family assets in excess of \$5,000, HACSD must obtain supporting documentation (e.g., bank statements) from the family to confirm the assets. Any assets will continue to be reported on HUD Form 50058.

Due to the added administrative cost, the HACSD will not attempt a third-party verification of any asset in which the source collects a service charge and the family has available original documents, such as bank statements. If the family cannot provide original documents, the HACSD will pay the service charge for the third-party verifications.

Acceptable verification may include any of the following:

Verification forms, letters, or documents from a financial institution or broker

Passbooks, bank account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker

Quotes from a stockbroker or realty agent as to the net amount family would receive if they liquidated securities or real estate

Real estate taxes statements, if the approximate current market value can be deduced from assessment

Financial statements for business assets

Closing documents showing the selling price, and the distribution of the sales proceeds

Appraisals of personal property held as an investment

Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes

### **INTEREST INCOME FROM MORTGAGES OR SIMILAR ARRANGEMENTS**

Acceptable methods of verification include:

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).

Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification

Copies of the deed of trust and note that indicate the beginning principal, interest rate, term of loan, payment schedule, and principal and interest payment.

Copy of ledger reflecting the posting of payments and application of interest and principal

Copy of year's end statement to borrower

Copies of the escrow papers and contract

### **EQUITY IN REAL PROPERTY OR OTHER CAPITAL INVESTMENTS**

Equity is the estimated current market value of an asset (such as a house) less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset. The residence of the family is not considered an asset in cases of manufactured homeowners receiving assistance on the

spaces, or Section 8 Homeownership participants receiving assistance on the purchase of their residences.

If the capital investment is owned jointly with others not in the household, a prorated share of the property's cash value will be counted as an asset.

### **NET RENTAL INCOME FROM PROPERTY**

The family must provide adequate documentation for the HACSD to anticipate net rental income.

Acceptable methods of verification include:

IRS Form 1040 with Schedule E (Rental Income)

Copies of latest rent receipts, leases, or other documentation of rent amounts.

Documentation of allowable operating expenses of the property including: tax statements, insurance invoices, and bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

Copies of ledgers indicating rent payments.

### **CHECKING AND SAVINGS ACCOUNTS, STOCKS, BONDS, CERTIFICATES OF DEPOSIT, AND MONEY MARKET FUNDS**

The HACSD will count as assets amounts in the family's checking, savings, certificate of deposit (CD), and money market accounts, including those accounts held by children. The HACSD will count the current value, unless there is evidence provided by the family that an average of the balance for the last 2-6 months is a better reflection of anticipated assets. The HACSD will calculate interest income based on the interest rate reflected on the most current statement, or on the CD set rate, unless third party verification reflects a higher interest rate. For stocks, the HACSD will calculate asset income based on the earnings for the most recent reporting period, and may average the earnings for the prior 12 months.

Acceptable methods of verification include:

Written third-party verification from the institution handling the asset

Account bank statements, passbooks, certificates of deposit, or HACSD verification forms completed by the financial institution

Broker's statements showing value of stocks or bonds and the earnings credited the family, or copies of bonds. Earnings can be obtained from current newspaper quotations, bank, or oral broker's verification.

IRS Form 1099 from the financial institution provided that the HACSD must adjust the information to project earnings expected for the next 12 months.

### **LUMP SUM**

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income, but are included in assets if they are retained by the family in a form recognizable as an asset (e.g., deposited in a savings or checking account)

Lump sum payments from social security or Supplemental Security Income (SSI) are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

### **ANNUITIES**

An "annuity" is a contract between a person and a life insurance company. An annuity accumulates and invests money and pays it out as income over time. An annuity may have a cash value countable as an asset or is providing income. An annuity may be either an asset or it may be providing income but an annuity is ***never*** both income and an asset at the same time.

Annuities are considered long term (for example, more than five to 10 years) accumulation instruments and have two distinct phases: the first is the accumulation phase (money is deposited in a lump sum or contributed over time in regular installments and grows through investment) and the second phase is the payout (or "annuitization") period during which regular payments are made to the owner of the annuity usually for a specific period of time or the life of the annuity's owner, whichever is longer.

A payout example is "10CC," which means "ten years certain and continuous." This means that the owner of the annuity (the person receiving the payments (or his/her heir)) will receive payments for at least 10 years or the lifetime of the owner, whichever is longer.

The insurance company can verify the annuity's cash value or payment amounts.

Once the contract is "annuitized," and payments begin, it no longer has a "cash value" and it cannot (under any circumstance) be "cashed in."

Some of the words associated with annuities include "immediate or deferred," "fixed or variable," and "lump sum or periodic contribution."

Payments are usually monthly, but they can also be quarterly or annually.

Insurance companies may mail an annual statement regarding the cash value of the accumulation account.

An "annuitant" is a person receiving a regular payment from a retirement account or pension, which may be an annuity but can also be from a labor union, government agency, or company pension plan. A payment receipt or third-party letter that identifies somebody as an "annuitant" does not mean that person owns an "annuity."

### **CONTRIBUTIONS TO RETIREMENT FUNDS**

[24 CFR 5.603(d)]

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

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment. In addition, count only the amount the family would actually receive after any costs or fees involved with liquidating the asset have been deducted.

After retirement or termination of employment, count as an asset any amount the employee is eligible to receive as a lump sum, after any costs or fees involved with liquidating the asset have been deducted.

Verification of retirement/pension funds is as follows:

Before retirement, the HACSD will use the most current statement from the entity holding the account.

Upon retirement, the HACSD will accept the most current statement from the entity holding the account that reflects any distributions of the account balance, any lump sum withdrawals, and any regular payments.

After retirement, the HACSD will accept the most current statement from the entity holding the account dated no earlier than 12 months prior to retirement.

The statement must reflect any distribution of the account balance, any lump sum withdrawals, and any regular payments.

### **ASSETS DISPOSED FOR LESS THAN FAIR MARKET VALUE**

[24CFR 5.603(d)(3)]

At certification and recertification, the HACSD will obtain the family's self-certification as to whether any member has disposed of assets for \$10,000 or more under fair market value during the two years preceding the effective date of the certification or re-certification. Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed for less than fair market value. Assets disposed as a result of a divorce or separation are not considered assets disposed of for less than fair market value, providing some monetary consideration was received and there is a separation or divorce settlement agreement established through arbitration, mediation, or court order.

If the family certifies it has disposed of assets for \$10,000 or more under fair market value, documentation is required that shows: (a) the type of assets disposed of, (b) the date they were disposed of, (c) the amount the family received, and (d) the FMV of the assets at the time of disposition. Third-party verifications will be obtained wherever possible.

Assets to be considered include: real property, savings, stocks, bonds, and other forms of capital investments.

Excluded assets are: the value of personal property such as furniture and automobiles, as well as a trust fund or asset not under the control of any member of the assisted family.

### **DEDUCTIONS AND ALLOWANCES**

[24 CFR 5.611; 982.516]

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

Deductions must be anticipated for the following year, and the family eligibility for those deductions must be evaluated. Generally, the HACSD will use current circumstances to anticipate expenses, but will take into consideration known future costs and expenses expected to fluctuate during the year (e.g., childcare expenses for school-aged children), as well as look at historical data (e.g., prior year's prescription expenses) to anticipate annual expenses.

If the family has an accumulated debt for an eligible expense not previously allowed as a deduction, the HACSD may allow as a deduction the amount anticipated to be

repaid on the debt during the next year. The HACSD may use historical information as a basis for anticipated repayment of the debt.

HUD has five allowable deductions from annual income:

Dependent allowance: \$480 each for family members, (other than the head, spouse, or co-head, foster children, or live-in aides) who are minors (under 18 years old), an adult full-time student, or a family member with disabilities. An unborn child is not eligible for this allowance.

Elderly/disabled allowance: \$400 per family for families whose head, spouse or co-head is 62 years old, or over, or disabled;

Allowable Medical Expenses: Deducted for all family members, except for foster children or live-in aides, of an eligible elderly/disabled family in which the head of household or spouse is 62 years old or more, or disabled. These are allowed only if not reimbursed from another source and only the amount that exceeds three percent of the total gross non-excluded annual household income.

Childcare Expenses: Reasonable childcare expenses deducted for the care of the assisted family's children under age 13 when childcare is necessary to allow an adult member to work, attend school, or actively seek employment. These are allowed only if not reimbursed from another source. Childcare expenses for the care of foster children are not allowable expenses.

Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities, only if needed to enable the disabled individual or an adult family member to work and only if not reimbursed from another source.

### **PREGNANT APPLICANT/PARTICIPANT**

No dependent allowances for an unborn child.

## **EXPENSES DEDUCTED OFF OF ANNUAL INCOME**

### **CHILDCARE EXPENSES**

[24 CFR 5.603]

The regulations define childcare expenses as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his/her education

and only to the extent such amounts are not reimbursed." Childcare expenses for foster children are allowed (HCV Guidebook, Ch. 5).

The HACSD may not decline to allow childcare expenses when there is an adult in the household who appears to be available to provide childcare. However, the HACSD may request a statement from the family outlining the reason why the family has a need for outside childcare.

In the case of childcare expenses to allow an adult family member to actively seek employment, the family member must provide documentation in the form of a written log indicating the date, beginning and ending times, and the names and addresses where s/he went to actively seek employment.

Childcare expenses do not include child support payments made to another on behalf of a minor not living in the assisted household.

In the case of a child attending private school, only after-hours care will be allowed as childcare expenses.

Childcare expense deductions are allowed based on the following guidelines:

**Childcare to work:** The maximum childcare expense allowed cannot exceed the amount earned by the person enabled to work whose income is actually included in the family's annual income. The "person enabled to work" will generally be the adult member of the household who earns the least amount of income from working, unless the family provides documentation that justifies the designation of another family member as the person enabled to work. The number of hours of allowable childcare cannot exceed the number of hours worked plus reasonable transportation time not to exceed one hour per day, of the person enabled to go to work.

**Childcare for school:** The number of hours claimed for childcare may not exceed the number of hours the family member is attending school, plus reasonable transportation time not to exceed one hour per day. To be eligible for the deduction, the family member must provide proof of enrollment in an academic or vocational school or a formal training program and the hours of classes or training.

**Childcare to actively seek employment:** The number of hours claimed for childcare may not exceed the time taken to actively seek employment as indicated on the family member's written log.

**Amount of Expense:**

The HACSD will only allow necessary and reasonable childcare expenses and only those expenses attributed directly to childcare. If only a portion of the expenses is for childcare, the HACSD will prorate the expenses based on the number of hours spent on childcare compared with the total number of hours services are provided. The HACSD may survey local childcare providers in the community for information on average childcare costs. If the childcare expense information submitted by the participant materially exceeds comparable reasonable childcare cost, the HACSD will calculate childcare expenses using an average of reasonable comparable childcare cost, and not the amount submitted by the participant.

The family must certify if any childcare expenses have been, or will be, paid or reimbursed by outside sources.

The HACSD will not provide a deduction for non-child care services provided by the childcare provider such as housekeeping, shopping, or cooking, nor for childcare services provided by a family member residing in the assisted unit. The HACSD will not allow childcare costs for the care of school-aged children during normal school hours when school is in session.

Written verification from the recipient of the childcare payments is required. If the childcare provider is an individual, s/he must provide a statement of the amount charged the family for the services.

Verifications must specify the childcare provider's name, address, telephone number, social security number or tax identification number, the names of the children cared for, the number of hours the childcare occurs, the rate of pay, and the typical yearly amount paid, including adjusted figures for school and vacation periods.

The HACSD will compare the hours of childcare with the activities engaged in by the adult household member requiring the childcare in order to actively seek work, pursue education or be gainfully employed. A copy of the schedule of classes, employer verification of work hours, or log indicating job-seeking activities may be requested to verify the need for childcare.

### **MEDICAL EXPENSES**

[24 CFR 5.609(a)(2), 5.603]

Medical expenses are allowed only for elderly or disabled families, with a head of household or spouse who is elderly, disabled, or both. The IRS Publication 502 will be used as a guide to assist in determining allowable medical expenses in instances when the regulations or HACSD policies are unclear. If an expense is eligible as both a medical and a disability assistance expense, the expense will be considered a medical expense.

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

Families, who claim medical expenses, must submit a certification indicating if medical expenses have been, or will be, reimbursed by an outside source. It is the responsibility of the family to provide documentation of expenses in the format required by the HACSD. Expenses supported by confusing, unclear, or non-descriptive documentation will be disallowed. All medical expense claims will be verified by one or more of the methods listed below:

Written verification by a doctor, hospital, 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 an insurance agency or a government agency

Written confirmation by the insurance company, or employer, of health insurance premiums to be paid by the family

Written confirmation from the Social Security Administration on Medicare premiums to be paid by the family over the next 12 months. A computer printout, or 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 with a projection of the number of hours the care is needed.

An attendant's written confirmation of the hours of care provided, and the amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments), or pay stubs, or written verification from the agency providing the services.

Receipts, canceled checks, or pay stubs that clearly reflect and describe medical costs and insurance expenses likely to be incurred in the next 12 months will be accepted.

Copies of payment agreements or most recent invoices to verify payments made on outstanding medical bills will continue over all or part of the next 12 months.

Receipts or other records of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses may be accepted. The HACSD 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.

Prescribed Medicines and Drugs: Must be prescribed by a doctor (does not include medical marijuana). The family must provide legible pharmacy receipts that clearly indicate the expense amount in U.S. dollars, date, and the type of medicine purchased.

Nonprescription Medicines: Refer to IRS Publication 502 guidelines for the handling of nonprescription medicines. Items that are taken to maintain your ordinary health, and are not for medical care will not be allowed as a medical expense, except for insulin; medical expense amounts paid for a drug that is not prescribed is generally not an eligible medical expense. For example, the doctor recommends that the participant takes aspirin, but aspirin is a drug that does not require a physician's prescription, so the cost is not an eligible medical expense.

As a reasonable accommodation, non-prescription medical items recommended by a medical professional as a treatment may be allowed medical expenses if there is a direct relationship between the specific medical condition and the need for the non-prescription medical item(s) and that, without the non-prescription medical items, the person's medical condition would deteriorate. Medical marijuana is excluded.

Herbal Medicines: To be allowed, the family must provide a medical professional's written recommendation for the necessity of their use as a necessary treatment directly administered or supervised by a licensed medical professional for a specific medical condition. To be allowed, the name of the herbal medicine and the quantity recommended should be established. The family must also provide legible receipts that clearly indicate the amount in U.S. dollars, date, type and quantity of herbal medicine purchased. Medical marijuana is excluded.

Vitamins: To be allowed, the vitamins must be prescribed, purchased from a pharmacy, and accompanied by a medical professional's written recommendation for their use as a necessary treatment for a specific medical condition. The family must also provide legible pharmacy receipts that clearly indicate the amount in U.S. dollars, date and type of vitamins purchased.

Mileage for Medical Appointments: The HACSD will provide allowances for mileage expenses for medical appointments at the lower of the current IRS standard mileage rate, as long as copies of mileage logs are provided. Mileage logs must be documented with starting address and destination address, odometer readings with beginning and ending mileage, and purpose and date of visit. Bus, trolley, or cab fare must be documented with legible receipts that provide the date and cost of the trip along with destination address and purpose of the trip. Transportation expenses for medical appointments outside of the United States are not allowed.

Medical Services: To be allowed, the family must provide legible receipts that clearly indicate the medical services, the amount in U.S. dollars, dates of the services, the names and addresses of the medical providers, and that the providers are physicians, surgeons, specialists, or other medical practitioners.

Medical Devices: To be allowed as a medical expense, a medical device must be directly related and created to treat or assist in treating a specific disease or medical condition. For example, a blood tester for a person with diabetes is an eligible medical expense, as is a blood pressure device for a person with high blood pressure, or an oxygen unit for a person with emphysema.

Medical supplements in solid or liquid form: To be allowed, the supplements must be prescribed, purchased from a pharmacy, and accompany a medical professional's written recommendation for their use as a treatment for a specific medical condition. The family must also provide legible pharmacy receipts that clearly indicate the amount in U.S. dollars, the date and type of supplements purchased.

Medical Insurance premiums: Must provide receipts or official documentation of current monthly premiums.

### **Standards for Physical Therapy/Exercises at Non-Traditional Settings**

Physical and mental health therapy expenses for treatment at non-traditional<sup>1</sup> settings are allowed medical expenses, providing the treatment is necessary to treat a specific disease or medical condition, is prescribed by a licensed medical professional, and providing the treatment is administered and/or directly supervised by a licensed medical professional.

The expense for the use of recreational facilities (e.g., health club, gym, spa, massage center, tennis court, etc.) not directly administered and/or supervised by a licensed medical professional to ensure the facilities are being used in the prescribed manner, is **not** an allowed medical expense.

A licensed medical professional must provide a written statement indicating the type of therapy at a non-traditional setting needed by the patient, whether the therapy is necessary to treat a specific disease or medical condition, the number of hours per week or month the therapy is to be provided, the setting or settings where the therapy may be provided, and whether the therapy is needed on an ongoing basis or the specific period of time the therapy is needed.

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<sup>1</sup> As opposed to traditional physical or mental health therapy administered by licensed medical personnel at their medical offices, medical facilities, or hospitals.

A medical professional administering and/or supervising a therapy or treatment for a specific disease or medical condition at a non-traditional setting must provide verification indicating the number of hours per week or month the medically prescribed therapy/treatment is being accessed.

In the case of allowed medical expenses for the use of recreational facilities, if the cost of the use of the facilities includes non-treatment services/activities, the medical expenses portion of the payment will be prorated based on the number of hours necessary to treat the specific disease/medical condition versus the overall number of hours the facility is available to the patient. For example, in the case of an individual membership at a 24-hour/365 day fitness center at which the patient is prescribed one-hour daily/365 days a year of medically supervised exercises/physical therapy that are necessary to treat a specific medical condition or disease, the total allowable expenses would be 1/24th of the overall cost.

### **Medicare Prescription Drug Plan – Part D**

The permanent Medicare Prescription Drug Plan benefit took effect January 1, 2006. This plan makes prescription drug coverage available to all Medicare beneficiaries. Medicare beneficiaries with low income and limited assets are eligible for additional assistance to pay for Medicare Prescription Drug Plan costs.

In calculating annual income for a family, the low-income subsidy received to assist low-income persons in paying for their Medicare Prescription Drug Plan costs must be excluded as annual income for the purpose of calculating any rent or assistance.

The amount of out-of-pocket expenses for prescription drugs is treated as a standard medical expense. The premiums some plan participants may pay for this plan will be treated as a medical expense.

### **Ineligible Medical Expenses**

Medicines and other items and treatments that are not for the treatment of a specific medical condition but recommended to maintain general health or as a preventative treatment (including medical marijuana) are not eligible medical expenses. Personal use items are not eligible medical expenses. Treatment in a non-traditional, non-medical setting is not an eligible medical expense unless it is directly administered or supervised by a licensed medical professional. Proof of direct administration or supervision will be required documentation for the specific medical condition.

### **DISABILITY ASSISTANCE EXPENSES**

[24 CFR 5.603(b) and 5.611(a)(3)(ii)]

Disability assistance expenses, not reimbursed from another source, may be deducted to the extent the total expenses plus medical expenses exceed three percent (3%) of annual income. Disability assistance expenses are only allowable to the extent they allow a family member, including the disabled family member, to work, and the expenses may not exceed the gross income of that family member allowed to work.

The family must identify the family members enabled to work as a result of disability assistance expenses. In evaluating the family's request, the HACSD will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with the disabilities.

If the disability assistance expenses allow multiple family members to work, the expenses will be capped by the combined gross employment income of those family members.

### **Eligible Disability Expenses**

#### **Auxiliary Apparatus**

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible disability expenses. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations, but not the cost of the apparatus itself, is an eligible expense. In order for the cost of a service animal to be an eligible disability expense, the family must provide documentation from the agency that trained the service animal that describes the type of animal and the animal's unique skills and abilities, as well as a verification from a medical professional regarding the need for the service animal to provide disability assistance services. The cost of an approved service animal, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care will be eligible disability expenses.

Auxiliary Apparatus expense verifications include:

- Receipts for purchases, or proof of monthly payments, and maintenance expenses for auxiliary apparatus

- In the case where the person with disabilities is employed, required documentation includes a statement from the employer stating that the auxiliary apparatus is necessary for employment. In the case where the auxiliary apparatus allows another adult to work, required documentation includes a statement from the family that the apparatus is necessary to allow an adult family member to work.

#### **Eligible Attendant Care**

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be allowed for the period that person enabled to work is employed, plus reasonable transportation time. The cost of general housekeeping and personal services are not eligible expenses. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person to work are eligible.

The HACSD will allow a prorated expense deduction if the attendant provides other services not related to disability assistance, such as housekeeping or childcare. The proration will be based on the number of hours spent on eligible activities as compared with the total hours worked.

Attendant care verifications include:

An attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided

Certification of family and attendant and/or copies of canceled checks the family used to make payments

#### Necessary and Reasonable Expenses

The HACSD will only allow reasonable disability expenses and may verify the reasonableness of those expenses by obtaining information from organizations that provide services to persons with disabilities.

In all cases, required documentation includes:

A written certification from a reliable, knowledgeable professional, stating 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 enable another family member to be employed.

The family must certify whether it receives reimbursement for any of the expenses of disability assistance, and the amount of any reimbursement received.

## **TOTAL TENANT PAYMENT AND TENANT RENT**

### **PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES**

[24 CFR 5.520]

## **Applicability**

Proration of assistance for mixed families must be offered to any "mixed" applicant or participant family. A "mixed" family includes at least one U.S. citizen or eligible immigrant, and any number of ineligible members.

## **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. Calculations are performed on the HUD 50058 form.

## **MINIMUM RENT**

[24 CFR 5.630]

### **1. Minimum Rent Amount**

The HACSD "minimum rent" is \$50. Minimum rent refers to the total tenant payment and includes the combined minimum amount a family must pay towards rent and/or utilities. "Subject to minimum rent" means the minimum rent was the greatest of either 30 percent of the monthly-adjusted income, 10 percent of the monthly gross income, or the minimum rent.

### **2. Financial Hardship Requests for an Exemption to Minimum Rent**

HACSD recognizes that in some circumstances even the minimum rent may create a financial hardship for families. HACSD will review all relevant circumstances brought to HACSD's attention regarding financial hardship as it applies to the minimum rent. The following section states HACSD's procedures and policies concerning minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998.

### **3. Criteria for Financial Hardship Exemption**

In order for a family to qualify for a financial hardship exemption, the family's circumstances must fall under one of the following HUD hardship criteria:

- The family has lost eligibility or is awaiting an eligibility determination for federal, state, or local assistance.
- The family would be evicted because of the imposition of the minimum rent requirement.
- The income of the family has decreased because of changed circumstances, such as loss of employment.
- Death in the family, which means the immediate family listed on the lease.
- Other circumstances as determined by HACSD or HUD.

Temporary hardship is defined as lasting three months or less.

Long-term hardship is defined as lasting four months or more.

#### **4. Notification to Families of Right to Hardship Exception**

HACSD will notify all families subject to minimum rents of their right to request a minimum rent hardship exception and keep a copy in the family's file. "Subject to minimum rent" means the minimum rent was the greatest figure in the calculation of the TTP, which is the greatest of 30% of monthly adjusted income, 10% of monthly income, or minimum rent.

HACSD notification will advise families that hardship exception determinations are subject to HACSD informal review procedures.

HACSD will review all family requests for exception from the minimum rent due to financial hardships.

All requests for minimum rent hardship exceptions are required to be in writing. HACSD will request documentation as proof of financial hardship. HACSD will use its standard verification procedures to verify circumstances that have resulted in financial hardship. Requests for minimum rent exception must include a statement of the family hardship that qualifies the family for an exception.

#### **5. Suspension of Minimum Rent**

HACSD will suspend the minimum rent for all families whose requests meet the criteria, effective the first day of the month after the request is received by the HACSD.

The minimum rent will be suspended until HACSD completes the verification process and determines if the hardship is temporary or long term.

"Suspension" means that HACSD will not impose a minimum rent calculation until HACSD has made this decision.

During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If HACSD determines that the suspension of minimum rent is not covered by statute, HACSD will impose a minimum rent retroactive to the date of suspension.

#### **6. Temporary Hardship**

If HACSD determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

HACSD will offer a Payment Plan Agreement to the family for any such rent not paid during the temporary hardship period.

### **7. Long-Term Duration Hardships**

If HACSD determines that there is a qualifying long-term financial hardship, HACSD must exempt the family from the minimum rent requirements and the family is not required to repay the minimum rent

#### **ZERO HAP**

A family determined to be ineligible for assistance because its TTP exceeds the lower of the gross rent or payment standard will continue on the program for 180 days after the determination of zero HAP. A notice of intended action will be issued to the family effective the initial date of the zero HAP status.

A family that requests to transfer during the 180-day period will be issued a transfer packet and a voucher, providing that family is eligible to move. However, the HACSD may not enter into a HAP contract if the family would be in zero HAP at the new unit.

#### **UTILITY REIMBURSEMENT PAYMENT**

[24 CFR 982.514(b),(c)]

The utility reimbursement payment will be issued directly to the family. HACSD will make utility reimbursement payments to qualifying families on a monthly basis but may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Payments may be prorated if the family leaves the program in advance of the next quarterly reimbursement. Families on quarterly reimbursements may request monthly payments if receiving quarterly reimbursements would create a hardship. (Refer also to the interim policy on zero or minimal income families.)



# VOUCHER, SUBSIDY STANDARDS, HOUSEHOLD COMPOSITION

[24 CFR Part 982.303, 982.402, 982.551, 982.54(d)(9)]

## INTRODUCTION

**H**UD guidelines require PHAs to establish a term for issued vouchers. In addition, a PHA must establish subsidy standards for the determination of family unit size that provide for a minimum commitment of subsidy, while avoiding overcrowding. The standards used for the unit size must be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS). This chapter explains the established term for voucher utilization, subsidy standards that HACSD will use to determine the voucher size (family unit size) for families when they are selected from the waiting list, the HACSD's procedures for a family size change, and for family selection of a unit of a different size than the voucher size.

## VOUCHER PROVISIONS

[24 CFR 982.302, 982.303, 982.54(d)(11)]

During the briefing session or upon approval of participant's transfer of unit, a household will be issued a Housing Choice Voucher (HCV) form HUD-52646. The voucher represents a contractual agreement between the HACSD and the family specifying the rights and responsibilities of each party. It does not by itself constitute admission to the program, which occurs after a family is selected off the Section 8 waiting list, found eligible, attends a briefing, the initial unit passes inspection, and the initial lease and contract become effective.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and the initial date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence the PHA has determined the family to be eligible for the program and that the PHA expects to have money available to subsidize the family, if the family finds an approvable unit.

However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA's Housing Choice Voucher Program. If the HACSD determines there is insufficient funding after a voucher to an applicant is issued, the HACSD may rescind the voucher and place the affected family back on the waiting list.

### **EXPIRATIONS**

The voucher is valid for the period of time specified on the voucher. The family must submit a Request for Tenancy Approval (RFTA) prior to the expiration of the voucher term. If an extension is not granted or an RFTA is not submitted, the voucher will expire. The family is not entitled to a review or hearing and must reapply to the HACSD waiting list.

### **SUSPENSIONS**

When a RFTA is received, the HACSD will add the number of days taken to process the RFTA to the term of the voucher. This is called "tolling."

### **EXTENSIONS**

An extension may or may not be granted, depending on current departmental policy. If the HACSD is allowing extensions, a family must request an extension to the initial term of the voucher in writing prior to voucher expiration. The HACSD must be satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the HACSD, throughout the initial voucher term. A written family search record may be required.

An extension may be granted if a family has a need for reasonable accommodation for a household member with a disability.

### **ASSISTANCE TO VOUCHER HOLDERS**

After the first 30 days of the search, the family should maintain a search record. The search record may be required for any voucher extension requests. The search record must include a list of the units visited. This list must include the dates the units were examined, the landlords' names and telephone numbers, the unit addresses, the rents, and why the voucher holder was not able to rent the unit.

**VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

[24 CFR 982.315]

When an assisted family or a family who has been issued a voucher divides into two otherwise eligible families, and cannot agree as to which new family unit should retain the assistance and/or the voucher, and there is no determination by a court; the HACSD, in determining which family will receive the voucher, will consider the following factors in ranking order of importance, with one representing the greatest importance and six the least importance:

1. If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance.
2. Which of the two new family units has legal custody/guardianship of the dependent children.
3. The composition of the new family units, and which unit contains elderly or disabled members.
4. Recommendations of social service professionals.
5. Which family member was the head of household when the voucher was initially issued, as indicated on the initial application.
6. Which family members are remaining in the assisted unit.

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

The decision on who will be assigned the voucher will be issued in writing to both parties within 30 days of the request for assignment. The party not assigned the voucher may request an administrative review of the decision within 14 days of the date of the notice. The decision will be reviewed by a Housing Specialist II (or above) who was not a party to the original decision.

In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when 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 HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator’s HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher’s turnover.

If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

## **PAYMENT STANDARDS**

[24 CFR 982.4]

The HACSD's schedule of payment standards is used to calculate housing assistance payments. A payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)."

When the payment standards change, the HACSD will apply the change in accordance with the regulations as follows:

### **Decreases**

If the payment standards decreased during the term of the HAP contract, the lower payment standard generally will be used beginning on the effective date of the family's second annual reexamination following the effective date of the decrease in the payment standards. In compliance with Small Area Fair Market Rent (SAFMR) guidance, the HACSD will provide the family with at least a 12 months' notice that the payment standard is being reduced before the effective date of the change.

### **Increases**

An increase in the payment standards will be applied beginning on the effective date of the family's first annual reexamination that is being processed after the effective date of the payment standards increase.

A family's payment standard will not be updated at interim reexamination.

### **Changes in Family Unit Size**

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases, the new family size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size. (See increase/decrease to voucher unit size)

### **Reasonable Accommodation**

If a family requires a higher payment standard as reasonable accommodation for a family member who is a person with disabilities, the HACSD may grant a higher payment standard for the family of not more than 120 percent of the published SAFMR.

## **DETERMINING VOUCHER SIZE (FAMILY UNIT SIZE)**

[24 CFR 982.402]

For each family, the HACSD determines the appropriate number of bedrooms under the HACSD subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The HACSD may change its subsidy standards at any time without prior notice to its participants should the circumstances warrant it, such as in the case of funding reductions.

The voucher size is determined prior to the briefing by comparing the family composition to the HACSD subsidy standards.

The applicable subsidy standards relate to the number of bedrooms on the voucher, not the family's actual living arrangements. After initial voucher issuance, the voucher size may be increased or decreased in accordance with the HACSD's policies.

## **SUBSIDY STANDARDS**

HUD guidelines require that the HACSD establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must also be within the minimum unit size requirements of HUD's Housing Quality Standards. The HACSD's subsidy standards for determining voucher size shall be applied in a manner consistent with fair housing guidelines.

Generally, upon voucher issuance to new program admissions and incoming ports, the HACSD will issue a voucher within the following guidelines:

One bedroom is assigned to each two household members, including permanent foster children/adults, regardless of sex, age or relationship. A live-in aide is entitled to a separate bedroom.

- Current participants who were issued a voucher prior to July 1, 2019 based on the previous subsidy standards of one bedroom assigned for the head of household/spouse or head/co-head and one bedroom awarded to each additional two household members will be issued a notice if their voucher unit size will be reduced under the new subsidy

standards. For these participants, the new subsidy standards will become effective on the earliest of the following:

- Family moves to a different unit;
- Change in participant family size as described in Increase/Decrease in Voucher Unit Size sections below;
- At the first annual recertification following a 12-month notice;
- Funding reductions

Permanent foster children/adults are defined as those expecting to reside with the family for at least one year.

No additional voucher bedrooms are provided for a live-in aide's family. A family member may have only one live-in aide.

Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member absent due to military service.

A pregnant woman (with no other persons) must be treated as a two person family

For incoming portability, the above standards apply to family members listed on the HUD-50058. Any additional family members to be added to those listed on the HUD-50058 will require HACSD approval and are subject to the limitations to household additions applied to program participants.

For Project-Based Voucher (PBV) developments, the HACSD may establish different subsidy standards in order to meet the needs of a particular population or project. More information regarding specific application of subsidy standards to PBV can be found in Chapter 15 of this Plan.

### **Increases in Voucher Unit Size for Participants**

The HACSD may increase the voucher size upon the approval of additional household members including permanent foster children/adults, the addition of a live-in aide, or as a reasonable accommodation for a person with disabilities.

An increase in the unit size will be applied beginning on the effective date of the family's first annual reexamination that is being processed after the effective date of the unit size increase.

A family's payment standard will not be updated at interim reexamination.

### **Decreases in Voucher Unit Size for Participants**

The HACSD will not reduce the voucher unit size for participants unless there is a change in household composition; the family is no longer entitled to a reasonable accommodation or a live-in aide; the subsidy standards change; or it is found the current subsidy standards were never applied or were applied in error. A reduction in voucher size will be applied at the next family annual recertification, or as soon as possible thereafter. The family must receive at least a 60-day advance notification of a reduction in voucher size.

### **EXCEPTIONS TO SUBSIDY STANDARDS**

[24 CFR 982.402]

In determining family unit size for a particular family, the HACSD may grant an exception to its established subsidy standards, upon request, if the HACSD determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)].

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

### **REASONABLE ACCOMMODATION**

A reasonable accommodation request will not be considered if there is bedroom space available to other family members, such as a shared bedroom that, if utilized, would free up a separate bedroom for a family member with a disability. Non-bedroom areas will not be considered in making this determination.

The HACSD will not approve an additional bedroom for non-living purposes, such as the placement of equipment/supplies, unless the equipment/supplies are necessary for a person with disabilities and are necessary to meet that person's immediate needs. Requests for an extra bedroom for medical equipment must be supported by verification from a health care provider that documents the need for the extra bedroom. Medical equipment/supplies that are not currently being used, or may not be used within the next six months, are not considered in the determination of need for an extra bedroom.

The disability **must** meet the HUD definition of disability that requires a reasonable accommodation. Refer to the glossary for the HUD definition of a person with disabilities.

### **LIVE-IN AIDE**

A live-in aide is entitled to a separate bedroom. If a live-in aide is added to the

household, the family is entitled to a one-bedroom increase in voucher size, providing they are living in or transferring to an appropriately-sized unit.

A live-in aide's family members may reside in the unit as long as the unit is not overcrowded, but they are not entitled to additional bedrooms.

### **REQUEST FOR EXCEPTIONS TO SUBSIDY STANDARDS**

The family must request in writing a larger voucher than warranted under the HACSD subsidy standards as a reasonable accommodation for a family member with disabilities or for a live-in aide. The family request must provide written verification of the disability and disability-related need for a larger voucher (unless the disability and need are apparent). A family request for a reasonable accommodation must also explain what about the additional bedroom will allow the person with disabilities better access to the program. A reasonable accommodation will only be given to the person with disabilities – not the family member without disabilities.

A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability (pursuant to the HUD/DOJ Joint statement on Reasonable Accommodations Under the Fair Housing Act) must provide a written verification of the need for additional bedrooms as a reasonable accommodation for a family member with disabilities. If the request for reasonable accommodation is for an additional bedroom for a live-in aide or for medical equipment, a health care provider must verify the medical need for the live-in aide and/or the extra bedroom. [PIH 2010-51; PIH 2012-33]

The HACSD will require only the information necessary to determine the needs that warrant an additional bedroom or live-in aide, and not to determine the nature or extent of the disability.

## **DETERMINATION OF HOUSEHOLD STATUS AND COMPOSITION**

### **FAMILY COMPOSITION**

[24 CFR 982.201]

The family must obtain HACSD approval of any additional family member prior to that person moving into the assisted unit, unless the addition is by birth, adoption, marriage, return of disabled or minor children to the family, or court-awarded custody.

In cases where there is no court-awarded custody of a minor child or children due to the absence of the parent or legal guardian of the child and the child is living with the assisted family, the HACSD will apply the preponderance of evidence standard to

determine if the family has physical custody of the minor child or children. The HACSD will accept documentation including, but not limited to, school records, public assistance payments and notarized sworn statements that demonstrate that the assisted family has actual physical custody of the minor child or children.

Participants are required to report family composition changes in writing within 14 calendar days of when the change occurs. Any information, documents or signatures needed from the family, which is needed to verify the change, must be provided when requested.

If the family composition change is not reported within the required time period, or the family fails to provide documentation or signatures, it will be considered untimely reporting. Untimely reporting may result in the family being required to sign a repayment agreement or termination of assistance.

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

### **Unrestricted Admissions**

Additions through birth, adoption, court-awarded custody, marriage and the return of disabled or minor children to the household do not require prior approval, but the family is still required to report these additions within 14 calendar days, and these additions are still subject to family eligibility requirements, such as criminal history prohibitions.

### **Partially Restricted Admissions**

The addition of foster children/adults is allowed with prior HACSD approval. They may not be added if the unit will be overcrowded, but the family may transfer to add. The family may receive a larger voucher to add permanent foster children/adults in accordance with the subsidy standards.

The addition of a live-in aide is allowed with prior HACSD approval. Live-in aides may not be added if the unit will be overcrowded, but the family may transfer to a larger unit in order to accommodate the live-in aide. A live-in aide is entitled to a separate bedroom.

### **Restricted Admissions**

All admissions to the household not categorized above are limited to a total of two persons in a 12-month period based on the time of the recertification and may not be admitted to the household for the first 12 months after program admission (for 12 months from the date of initial lease-up). Each restricted adult admitted must currently

have income and have a steady income history over the last 12 months. If the income is from employment, the adult is required to be employed the equivalent of a minimum of 32 hours per week at minimum wage (federal) or above for the previous 12 months. If otherwise eligible to be added, the adult may not be added if the unit will be overcrowded, but the family may transfer to a larger unit in order to accommodate the adult.

If eligible for admission to the household, the voucher size may be increased in accordance with the subsidy standards. The addition will not be approved without the owner's written permission.

Exceptions to the income requirement for blood relatives of the head of household or spouse may be granted based on a reasonable accommodation to a family member who is a person with disabilities. This restriction may also be waived in certain situations where it would not be feasible to require the person being added to the household to satisfy the 12-month work requirement. These cases will be evaluated on a case by case basis. In addition, the family has the option of a shared housing arrangement with the person or persons not eligible to be a part of the assisted household.

### **Qualifying Family**

A qualifying family may be a single person or a group of persons.

A family may include a child or children. A family may consist of one or more elderly persons or persons with disabilities living together, or one or more elderly persons or persons with disabilities living with one or more live-in aides. The HACSD determines if any other group of persons qualifies as a family.

A single-person family may be:

- An elderly person.

- A person with a disability.

- Any other single person.

A child who is temporarily away from home because of **temporary** placement in foster care is considered a member of the family.

A family also includes:

- Two or more persons residing together using their combined income and resources to meet their needs.

- Two or more elderly persons or persons with disabilities residing together sharing income and resources.

One or more elderly or near-elderly persons or persons with disabilities residing together, with one or more live-in aides.

**UNRESTRICTED, PARTIALLY RESTRICTED AND RESTRICTED  
ADMISSIONS TO THE HOUSEHOLD**

<b>Type of Admission?</b>	<b><u>Prior Approval?</u></b>	<b>Criteria to allow admission?</b>
Children born to the assisted family	No	None
Court-Awarded Custody	No	If found to have engaged in prohibited activities, the family must take action to exclude from the household
Spouse	No	No prohibited activities, including criminal history  Landlord must approve in writing in advance  May not be added if unit will be overcrowded, but family may transfer to add  If found to have engaged in prohibited activities, the family must take action to exclude from the household
Return of Minor or Disabled Children to the Family (must have been a part of the family at one time)	No	If found to have engaged in prohibited activities, the family must take action to exclude from the household
Adoption	No	If found to have engaged in prohibited activities, the family must take action to exclude from the household
Other Adults/Co-Head	Yes	Each Other Adult added must have income and, if employed, a work history of at least 32 hours per week at minimum wage or above for the last 12 months or other steady income for the last 12 months  EXCEPTION: (Case-by-Case Basis) It would not be feasible to require the person to satisfy the 12-month work requirement  No prohibited activities, including criminal history  Landlord must approve in writing in advance.  May not be added if unit will be overcrowded, but family may transfer to add  Subject to the limitation of no more than two people every 12 months of Other Adults/Children
Other Children	Yes	No prohibited activities, including criminal history  Landlord must approve in writing in advance  May not be added if unit will be overcrowded,

### **Head of Household**

Head of household means "the adult member of the family who is considered the head for purposes of determining income eligibility and rent." The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse. The head of household is the adult member of the household designated by the family as the person wholly or partly responsible for paying the rent and with the legal capacity to enter into a lease under state/local law. Emancipated minors who qualify under state law may be recognized as head of household.

### **Spouse of Head of Household**

Spouse means the marriage partner of the head of household.

For proper application of the non-citizen rule, the definition of spouse is: the marriage partner from whom, in order to dissolve the relationship, an individual must be legally divorced. In addition, the partner in a common law marriage, as defined under state law, is also considered a "spouse." The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

### **Co-Head**

A co-head is 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.

A co-head is designated only upon admission to the program or admission to the household. An adult household member identified by the family on the eligibility booklet as the significant other of the head of household will be designated the co-head. A significant other is a household member who is identified as the "boyfriend," "girlfriend," "fiancée," or by other similar terms that indicate the person's significant relationship to the head of household. At the time of admission to the program/household, the family may request that another adult family member be designated co-head. Once a family member is designated co-head that designation does not change unless someone is subsequently designated a spouse, the co-head moves out of the household, or the co-head becomes the head of household. A minor who is emancipated under state law may be designated a co-head.

In the application of subsidy standards and calculation of benefits, a co-head is handled the same as a spouse. For example, a family with an elderly co-head or a co-head with a disability is considered a "disabled/elderly family" and is entitled to all "elderly/disabled family" deductions and allowances.

## **Other Adult**

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

## **Elderly and Near-Elderly Persons, Elderly Family**

[24 CFR 5.100 and 5.403]

An elderly person is at least 62 years of age. A near-elderly person is at least 50 years of age but below the age of 62. An elderly family is one in which the head, spouse, co-head, or sole member is an elderly person.

## **Persons with Disabilities and Disabled Family**

[24 CFR 5.403]

Special rules apply to persons with disabilities and to any family whose head of household, spouse, or co-head is a person with disabilities. A disabled family is one in which the head of household, spouse or co-head is a person with disabilities. Persons with drug or alcohol dependencies are considered persons with disabilities for protection against discrimination, although these persons must comply with all eligibility criteria, including not engaging in illegal drug activities (including use of medical or recreational marijuana) or a pattern of alcohol abuse.

The term "person with disabilities" means a person who has any of the following types of conditions:

Has a disability, as defined in 42 U.S.C. Section 423, which reads:

(d) "Disability" defined

(1) The term "disability" means –

- (A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
- (B) In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title); inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he or she has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001], which defines developmental disability in functional terms as:

A severe, chronic disability of a person five years of age or older which:

Is attributable to a mental or physical impairment or combination of mental and physical impairments;

Is manifested before the person attains age 22;

Is likely to continue indefinitely;

Results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and responsive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and

Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age five, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

### **Dependent**

Under 24 CFR 5.603, a dependent is 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. A dependent can never be the head of household, spouse, co-head, foster children/adults, or live-in aides.

Identifying each dependent in the household is important in qualifying the family for deductions from annual income.

### **Children Receiving Kin-GAP**

All of Kin-GAP assistance paid by the State of California is excluded from the family's annual income per PIH Notice 2012-1. The children are considered regular family members and are treated like any other dependents.

### **Children Receiving Adoption Assistance**

Adoption Assistance payments in excess of \$480 per adopted child are excluded from the family's annual income. The children are regular family members and are treated like any other dependents.

### **Foster Children/Adults**

A family may include foster children/adults. Foster adults are usually persons with disabilities, unrelated to the assisted family, who are unable to live alone. A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Documentation must be submitted to verify the identity of the foster children/adults, to confirm they are foster children/adults, to confirm the foster children/adults are legal U.S. residents and the benefits are paid on behalf of the foster children/adults. A streamlined documentation process is acceptable for foster children/adults expected to be in the household for a short period of time. Foster children/adults expected to be in the household at least one year are considered a part of the family in determining the subsidy standards and income limits.

The criminal history of adult foster children must be verified prior to admission to the household and whenever the criminal history of adult family members is reviewed. Adult foster children must sign release of information forms so that criminal history can be verified.

Foster children/adults are considered household members, but not family members. They are treated differently than family members:

The income paid on behalf of foster children/adults is not counted in determining the rental subsidy.

No dependent allowances for foster children/adults.

No childcare expense deductions for foster children/adults.

Foster children/adults are not subject to non-citizen rule requirements but the placement agency must confirm they are legal U.S. residents.

Foster children/adults may not be considered remaining members of the tenant family.

### **Live-in Aides**

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

Is determined by the HACSD to be essential to the care and well-being of an elderly 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);

Was not a member of the assisted household as a family member for at least one year prior to being admitted as a live-in aide; and

Will not overcrowd the unit (although the family is entitled to transfer to a larger unit to prevent over-crowding and the live-in aide is entitled to a separate bedroom).

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 aide's non-dependent family members' income will 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 and their dependent and non-dependent family members **may not** be considered a remaining member of the tenant family.

A live-in aide may not have an ownership interest in the dwelling unit.

A live-in aide must be out of the assisted household for at least one year before the live-in aide is eligible to be admitted to the assisted unit as a family member.

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

A live-in aide may only reside in the unit with the approval of the HACSD. A health care provider must verify the medical need for the live-in aide. [PIH 2010-51; PIH 2012-33] The verification must certify that a live-in aide is needed for the care of the family member who is near elderly, elderly, or disabled.

Live-in aides must sign all consent forms including the personal declaration and the release of information forms. Live-in aide's criminal history must be verified prior to admission to the household and whenever the criminal history of adult family members is reviewed. The live-in aide must provide identification information, including picture identification and a copy of his/her social security card. A live-in aide must be a legal resident and provide documentation, such as a birth certificate or current resident alien card as verification of legal residency. and the HASCSD will confirm the legal residency of non-citizens through the USCIS SAVE system. The income, asset, and expense information of live-in aides will not be requested, verified, or included in the calculation of the family's TTP and need not be declared on the eligibility booklet. However, the regular contributions from the live-in aide to the family would be counted as family income.

A participating family has 30 days from the date a live-in aide vacates the unit to obtain another eligible live-in aide. After 30 days, a 60-day notice of action will be issued reducing the voucher size. If an eligible live-in aide is approved prior to the effective date of the notice of action; the notice of action will be rescinded. An applicant or transferring family must identify an eligible live-in aide prior to execution of the HAP contract.

In accordance with 24 CFR 982.316(b), the HASCSD will refuse to approve a particular person as a live-in aide, or may withdraw such approval if:

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

The person commits or has committed drug-related criminal activity (including personal use of medical and recreational marijuana) or violent criminal activity; or

The person is subject to the sex-offender registration requirement of a state sex-offender registration program; or

The person is not approved by the landlord; or

The person has a history of disturbance or other occupancy problems; or

The person is unwilling to provide proof of identification or unwilling to sign the necessary releases of information; or

The person currently owes rent or other amounts to the HASCSD or to another PHA in connection with Section 8 or public housing assistance under the U.S. Housing Act of 1937; or

The person refused to sign consent or release of information forms or to provide requested verifications to establish identity or legal residency.

The HACSD will deny the admission of a live-in aide as outlined in 24 CFR Part 982.553 in accordance with the prohibition period outlined in Chapter 3. In particular, the HACSD will deny admission of a live-in aide for criteria outlined under 24 CFR Part 982.553(a)(ii)(3) for permissive prohibitions to prohibit program admission for "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".

The family members of a live-in aide may reside in the unit with approval of the HACSD. However, the HACSD reserves the right to rescind the approval or disapprove the addition of family members of a live-in aide if it is determined that they may negatively impact the assisted household, or because they are not the dependents or the spouse of the live-in aide.

### **Remaining Member of the Family**

[24 CFR 982.315]

A remaining member of the tenant family is the person remaining in the household when the head of household, spouse/co-head are absent. Authorized family members are eligible for remaining member status and the family's voucher.

A live-in aide, the family of a live-in aide, or foster children/adults are not eligible for remaining member status.

In order for a minor child to continue to receive assistance as a remaining family member, HACSD must receive one of the following:

Documentation that a court has awarded emancipated minor status to the minor; or

The HACSD has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child for an indefinite period.

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

### **Guests**

A guest is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent. A guest, except as noted below, who is in the unit more than 14 consecutive days without HACSD approval, or a total of 30 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member. The family may request an exception

to this guest policy for disability-related reasons, providing the family submits documentation of disability and disability-related need (unless apparent) and the guest's permanent residence.

Use of the unit address as the guest's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

Absence of evidence of any other permanent address will be considered evidence that the guest is a member of the household.

The burden of proof that the individual is a guest rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household, and the HACSD will terminate assistance.

The limitation on guests is not applicable to minors and college students who were once part of the household, children under a joint custody agreement, and adult caretakers, not included on the HUD 50058. Minors and college students who were part of the family, but who now live away from home during the school year and are no longer on the lease, may visit, with the owner's and the HACSD's permission, for up to 120 days per year without being considered a member of the household. An adult caretaker may remain in the unit as a guest for up to 180 days.

The HACSD may have entered into an agreement with the family to remove a person from the assisted household in lieu of denial or termination of program participation. In such case, the agreement may require that the excluded person not visit the household. Therefore, if it is found that said person has visited the household in violation of the agreement, the family is subject to termination of program participation per the provisions of the agreement

### **"Mixed Families"**

[24 CFR 5.518]

Under the non-citizens rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The non-citizens rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

The head of household or spouse is a U.S. citizen or has eligible immigrant status; and

All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse, are citizens or eligible

immigrants. The family may change the head of household to qualify for this provision.

### **TEMPORARILY/PERMANENTLY ABSENT FAMILY MEMBERS**

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

The HACSD must count all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HACSD must count the income of the spouse, co-head or the head of the household, if that person is temporarily absent, even if that person is not on the lease. The income of a permanently absent spouse who was previously in the assisted household will be counted unless the family has filed for a divorce or legal separation.

"Temporarily absent" is defined as a family member away from the unit for no more than 180 consecutive days.

Income of persons permanently absent, except a spouse who is not legally separated, will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other HUD-defined exceptions to military pay) are counted as income.

It is the responsibility of the head of household to report changes in family composition. The HACSD will evaluate absences from the unit using the policies in this Chapter.

### **Absence of Any Member**

A member of the household is considered permanently absent if the household member is away from the unit for six consecutive months or more in a 12-month period, except as otherwise provided in this Chapter. A sole member is considered permanently absent if absent from the unit for 30 consecutive days. A sole member may be granted an extension of up to 180 consecutive days for medical reasons, as a reasonable accommodation for a disability, or a family emergency.

If a member of the household is subject to a court order that restricts him/her from the home for more than six months, the person will be considered permanently absent.

### **Absence Due to Medical Reasons/Confined to Nursing Home**

CFR 982.54(d)(10)]

If a family member leaves the household to enter a facility such as a hospital, nursing home, or rehabilitation center, the HACSD will require verification from a reliable, qualified source as to the likelihood of his/her return, and the anticipated length of his/her absence.

### **Sole Family Member**

If the verification indicates the sole family member is permanently confined to a nursing home, s/he will be considered permanently absent and assistance will be terminated. If the verification indicates the sole family member may return in less than 180 consecutive days, or is unsure when the sole family member will return, the family member may be considered temporarily absent.

### **Remaining Household Member**

If a family member is confined to a hospital or nursing home for an indefinite duration, and there is a family member left in the household, the HACSD will calculate the lower family rent by comparing the following methods:

Exclude the income of the person confined to the nursing home, give the family no deductions for the medical expenses of the confined family member, and review and reduce the family's voucher size, if appropriate; or

Include the income of the person confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

### **Absence due to Military Service**

In cases where a military member is a single head of household with minor children and the family moves out of the assisted unit due to a verifiable overseas military deployment of the head of household, the HACSD will allow the family to resume participation in the rental assistance program when the head of household returns from deployment if the deployment is 24 months or less.

### **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, spouse or co-head) who attends school away from home, but lives with the family during school recesses may, depending on the circumstances, be considered either temporarily or permanently absent. If the family member is considered 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.

Students who are out of the home more than 50 percent of the year are considered permanently absent, unless they are in boarding school, school dormitories, or

temporarily staying with family or friends without a lease or rental agreement.

### **Absence due to Incarceration**

If a household member is incarcerated for more than 180 consecutive days, s/he will be considered permanently absent.

The HACSD will request documentation necessary to determine if the reason for incarceration is for prohibited activities, and take the appropriate action.

### **Absence of Children due to Placement in Foster Care**

The HACSD will verify with the appropriate agency when a child or children, temporarily absent from the home due to placement in foster care will return. In addition, the HACSD will determine why the children were placed in foster care for purposes of determining if a family member had engaged in violent or drug-related criminal activities including use of medical or recreational marijuana that may be cause for denial or termination of assistance.

If the time period in foster care is to be greater than six months from the date of removal of the children, or the children have been removed permanently, the voucher size will be reviewed and reduced, if appropriate.

### **Absence of Entire Family**

In cases where the family has moved out of the unit, the HACSD will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required to notify the HACSD before they move, or are absent for more than 30 consecutive days from a unit.

If the entire family is absent from the assisted unit for more than 30 consecutive days, the unit will be considered vacated, and the assistance for the unit and family will be terminated. However, the HACSD may grant an extension for absences of up to 180 consecutive days for a family emergency or medical reason.

HUD regulations require the HACSD to terminate assistance when the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the HACSD may:

Write letters to the family at the unit;

- Telephone the family at the unit;
- Verify if utilities are in service;
- Check with the post office;
- Visit the unit;
- Schedule an appointment with the family;
- Contact the neighbors;
- Contact the manager.

### **Absence of Parents and Assignment of Caretaker for Children**

When the courts or a social service agency have determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, in instances when the parents have vacated, the HACSD will treat that adult as a visitor for the first 180 days. During the time the caretaker is considered a visitor, the caretaker's income will not be counted, or deductions allowed.

After 180 days, if the court awards custody or legal guardianship to the caretaker, the voucher will be transferred to the caretaker, providing the caretaker meets all eligibility criteria for household additions.

If there is court action to award custody or legal guardianship is in process, the caretaker will be approved to continue in the unit as a visitor beyond 180 days.

The HACSD 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 12 months, and it is reasonable to expect custody to be granted.

If custody is awarded for a limited time, the HACSD will state in writing that the transfer of the voucher is for a limited time, and as long as the caretaker has the custody of the children.

Once the caretaker is approved by the HACSD and no longer considered a visitor, the income of the caretaker will be counted and deductions will be allowed.

### **Court-Ordered Temporary Absence**

When a court order restricts someone who has been considered a family member from living in the home, the PHA must determine whether the member is temporarily or permanently absent. This policy applies to circumstances such as temporary restraining orders, but not jail or prison incarceration, which are covered separately. If the court

order permanently restricts the return of the absent family member for more than 180 days, that family member will be considered permanently absent.

There must also be a review for prohibited activities, such as domestic violence, that may disqualify the family or the absent family member from program participation.

### **Joint Custody of Children**

Children, who are subject to a joint custody agreement but live with the applicant/participant more than 50 percent of the time, will be considered members of the household. More than 50 percent of the time is 183 or more cumulative days during the year.

In cases where separated parents are trying to claim the child as a member of the household, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

In a joint custody arrangement, if the minor is in the household less than six months per year, the minor will be considered to be an eligible visitor and not a family member.



## **INITIAL APPROVAL and BRIEFING**

[24 CFR 982.301, 982.302]

### **INTRODUCTION**

**T**he HACSD provides families selected to participate with all the tools necessary to locate an acceptable housing unit. The HACSD provides families the necessary information regarding the program and how they can achieve maximum program benefits, while complying with program requirements. When eligibility has been determined, the HACSD conducts a mandatory briefing designed to ensure that families know how the program works. The briefing provides a broad description of owner and family responsibilities, the HACSD procedures, and the steps the families must take to lease a unit. In addition, families receive briefing packets which provide 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 changes in family composition.

### **INITIAL ELIGIBILITY APPROVAL**

All preferences claimed on the pre-application, or while the family is on the waiting list, will be verified as follows:

After the family is selected from the waiting list.

The family's preference should exist at the time the preference is claimed, and must exist at the time of selection from the waiting list, because the claim of a preference determines the family's placement on the waiting list. The family's preference will be determined at the time the full application is completed, but the family must meet the preference at the date of selection from the waiting list.

After a family is selected from the waiting list, applicants will be required to:

Complete a full application and provide all requested documentation and information. The HACSD staff may interview the applicant to clarify and review the information on the full application.

The full application will be mailed to the applicant. The applicant must complete the full application.

### **REQUIREMENT TO ATTEND INTERVIEW**

The HACSD may require a full application interview attended by all adult family members. The purpose of the interview is to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is true and complete.

All adult family members must sign all appropriate areas of the housing application.

It is the applicant's responsibility to reschedule the interview if she/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, the HACSD may reject the application. The interview may be held in the office, by telephone, or at the applicant's home, as a reasonable accommodation to a person with disabilities.

Applicants who fail to appear and want to reschedule a missed appointment must make the request in writing to reschedule no later than seven days after the original appointment date.

Reasonable accommodation, such as accessible offices, inclusion of an advocate, or a home visit, will be provided to a disabled family upon request. The disabled family's designee will be allowed to participate in the interview process at the family's request.

If an application is denied due to a failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

All adult members must sign the HUD Form 9886, Release of Information; the application form; all HACSD-required supplemental documents; the declarations and consents related to citizenship/immigration status; a consent form to release criminal conviction records and to allow HACSD to receive and use records in accordance with HUD regulations; as well as any other documents required by the HACSD. Applicants may be required to sign additional release of information forms for information not covered by the HUD form 9886.

Applicants may not amend these documents or write notes of disclaimers on them. A family who alters any HACSD documents invalidates the documents and the family's application will be denied.

Failure to complete required forms or provide requested information will be cause for denial of the application for failure to provide necessary certifications, releases, and documents, as required by HUD or the HACSD.

The HACSD will request additional documents or information in writing, if it determines, at or after the interview, that they are needed.

If the requested information is not supplied by the due date, the HACSD will provide the family a notification of denial for assistance.

**VERIFICATION**

[24 CFR 982.201(e)]

Applicant information is verified using the verification procedures outlined in this Plan. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, eligible citizenship, criminal history, and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of the voucher.

**PRIOR TO THE BRIEFING**

Families determined to be ineligible will be notified in writing of the reason for denial, and given an opportunity to request an informal review or an informal hearing for a family denied because the family has no legal residents.

If the HACSD denies the applicant a preference [24 CFR 982.207] or for not meeting income targeting, it will notify the applicant in writing, indicating why and advising him/her of the opportunity to request an informal review with a departmental representative. If the preference or income targeting denial is upheld as a result of the review or the applicant does not request a review, the applicant will be returned to the waiting list without benefit of the preference or income category. Applicants may exercise other rights if they believe they have been discriminated against.

**Applicants who falsify documents or make false statements in order to qualify for any preference or income requirements will be removed from the waiting list.**

## **MULTIPLE FAMILIES IN THE SAME HOUSEHOLD**

Applicants consisting of two families living together who apply together, (such as a mother and father with a daughter and her husband and/or children) will be treated as a family unit and are eligible for one voucher.

## **DETERMINATION OF ELIGIBILITY**

After the verification process is completed, the HACSD will make a final determination of eligibility [24 CFR 982.201]. This decision is based on information provided by the family, third-party documents, HACSD research, and the current eligibility criteria in effect. If the family is determined to be eligible, the HACSD will mail a notification of a scheduled briefing. The purpose of the briefing is to issue the voucher and orient the family to the program.

## **SPLIT HOUSEHOLDS PRIOR TO VOUCHER ISSUANCE**

When an applicant family divides into two otherwise eligible families, cannot agree as to which new family unit should be processed for eligibility, and there is no determination by a court; the HACSD, in determining which family will be processed for assistance, will consider the following factors, in ranking order of importance, with one (1) being of the greatest importance, and six (6) of the least importance:

1. Whether domestic violence, defined as actual or threatened physical violence against family members by a member of the household, was involved in the breakup.
2. Which of the two new family units has legal custody/guardianship of the dependent children.
3. The composition of the new family units, and which unit contains elderly or disabled members.
4. Recommendations of social service professionals.
5. Which family member was the head of household when the voucher was initially issued, as indicated on the initial application.
6. Which family members are remaining in the assisted unit.

Documentation of these factors is the responsibility of the applicant families. The HACSD will make a determination based on the documentation supplied. Any false or misleading documentation or failure to provide requested information is cause for denial.

The household found not eligible to be processed for assistance will be mailed a notice explaining why and outlining their right to request an informal review within 14 days.

## **THE BRIEFING**

[24 CFR 982.301, 982.302

### **INITIAL APPLICANT BRIEFING**

A full briefing will be conducted for applicant families determined to be eligible for assistance. The briefings will be conducted in group meetings. If the family includes a person with disabilities, the HACSD will make every reasonable effort to accommodate that person to ensure effective communication. A family needing language services, must provide a written request at least seven days in advance of the scheduled briefing. When necessary, the HACSD may reschedule an applicant's briefing to accommodate language services requests.

The purpose of the briefing is to explain how the program works and to explain the briefing documents to families, so that they are fully informed about the program. In addition, information on desirable areas of the community, how the family may file a discrimination complaint, and some important legal resources will be provided. The briefing will enable families to utilize the program to their advantage and will prepare them to discuss the program with potential owners and property managers. The HACSD will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher.

### **REQUIREMENT TO ATTEND BRIEFING**

The head of household or spouse is required to attend a briefing after initial approval of eligibility. At the briefing, the head of household or spouse must sign the voucher and other required paperwork.

It is the applicant's responsibility to reschedule the briefing if the applicant is unable to attend. If the applicant does not reschedule or misses two scheduled briefings, the HACSD may deny admission. The briefing may be held in a location designated by the HACSD. The briefing may be held in or out of the office, by telephone, or at the applicant's home, upon request by a disabled family as a reasonable accommodation. A reasonable accommodation may also include accessible offices, inclusion of an advocate, or a home visit. The disabled family's designee will be allowed to participate in the briefing at the family's request.

Applicants who fail to attend the briefing and want to reschedule the briefing must make the request in writing to reschedule no later than seven days after the original briefing date. Applicants will be offered no more than two opportunities to attend a

briefing, unless a request is made for reasonable accommodation or documentation of a serious emergency is submitted.

If an application is denied due to a failure to attend the briefing, the applicant will be notified in writing and offered an opportunity to request an informal review.

**BRIEFING PACKET**

[24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. The HACSD may include other information and/or materials not required by HUD.

The following information and materials are provided to the family at the briefing:

The HACSD's policy for requesting extensions or suspensions of the voucher (referred to as tolling), and the term of the voucher.

A description of the method used to calculate the housing assistance payment for a family, how the family tenant payment is calculated, and information on the payment standard and utility allowance schedule. Also included is information on how the maximum allowable rent for an assisted unit is determined, and the rent reasonableness standard.

Where the family may lease a unit. For a family that qualifies to lease a unit outside the HACSD jurisdiction under portability procedures, information on how portability works.

The HUD-required tenancy addendum, to be included in the lease.

The Request for Tenancy Approval (RFTA) form, and a description of the procedure for requesting approval of a unit.

A statement of the HACSD policy on providing information about families to prospective owners.

The subsidy standards, including when and how exceptions are made, and how the voucher size relates to the unit size selected.

The HUD brochure, "*A Good Place to Live.*"

The HUD brochure on lead-based paint entitled, "*Protect Your Family from Lead in your Home.*"

Information on federal, state and local equal opportunity laws, and a copy of the housing discrimination complaint form. Additionally, the pamphlet, "*Fair Housing: It's Your Right*," other information about fair housing laws and guidelines, and the phone numbers of the local fair housing agency and the HUD enforcement office.

Information on the availability of lists of landlords or other parties willing to lease to assisted families, or agencies that help in the search for units. The list may include, if available, those willing to lease units, or agencies able to help families find units outside areas of poverty or minority concentration.

If available, a current listing of accessible units.

The family obligations under the program.

The reasons a family may have its assistance terminated.

The informal hearing/review procedures, including when the family must be offered the opportunity for an informal hearing/review.

An information packet including an explanation of how portability works, and a list of the names, addresses, and contact names of neighboring housing agencies.

A map or description of areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

Information regarding the HACSD's outreach program for families who are interested in, or experiencing difficulty in, obtaining housing in areas outside of minority-concentrated locations.

A copy of HUD form 903, so family may file a discrimination complaint.

A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration.

Sample leases for owners who do not use a lease for their unassisted tenants.

Family Handbook.

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

Requirements for reporting changes between annual recertifications.

The form, HUD-5380 domestic violence certification form and the form, HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking.

### **ENCOURAGING PARTICIPATION IN AREAS OF LOW POVERTY RATES OR LOW MINORITY CONCENTRATION**

At the briefing families are encouraged to search for housing in areas with low poverty rates and the HACSD will provide assistance to families who wish to do so.

The assistance provided to such families includes:

- Direct contact with landlords
- Providing information about services in various non-impacted areas
- Meeting with neighborhood groups to promote understanding
- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with fair housing groups or agencies

### **AFTER THE BRIEFING AND BEFORE LEASE-UP**

#### **CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

##### **Income Decrease**

When the family properly reports changes in factors that will reduce the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the reduction in family share will be recalculated. Prior to submission of the Request For Tenancy Approval (RFTA), the intake unit will calculate the reduction in family income. After submission of the RFTA, case management will calculate the reduction in family income. However, the processing of the RFTA will not be delayed in order to calculate a family's income decrease. In some cases, the income decrease will be processed with an interim as soon as possible after the execution of the lease and contract.

### **Income Increase**

All family increases in income will be calculated. Prior to submission of the RFTA, the intake unit will calculate the increase in family income. After submission of the RFTA, case management will calculate the increase in family income. However, the processing of the RFTA will not be delayed in order to calculate a family's income increase. In some cases, the income increase will be processed with an interim as soon as possible after the execution of the lease and contract.

### **Additions to Family**

Additions to the household received after prescreening will not be permitted until the family has been assisted for at least 12 months in accordance with the HACSD's interim policy, unless the additions are due to birth, marriage, adoption, court-awarded custody, or return of minor or disabled children to the household.

### **Family Reporting Requirements**

Families must report changes in income, assets, and family composition within 14 days of the change. Families discovered to have provided false, misleading, incomplete or untrue information prior to execution of a HAP contract in order to be found eligible for assistance will have their vouchers rescinded and will not be eligible for return to the waiting list at original date/time of application.

RESERVED

# REQUEST FOR TENANCY APPROVAL, OWNER APPROVAL, LEASES AND CONTRACTS

[24 CFR 982.302, 982.54, 982.453, 982.306]

## INTRODUCTION

[24 CFR 982.305(a)]

**T**he HACSD's program is designed to utilize available resources efficiently and maximize HUD funds by quickly providing assistance to as many eligible families as the budget allows.

The program allows families issued vouchers to search for eligible rental units within the jurisdiction of the HACSD, as well as outside the HACSD's jurisdiction if they qualify for portability. The family must find an eligible unit with an owner/landlord willing to enter into a housing assistance payment (HAP) contract with the HACSD. This chapter defines eligible housing and the HACSD policies on: initial inspections, lease requirements, the HAP Contract, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

The HACSD is committed to maintaining a neutral position in issues between owners and program participants. The HACSD strives to recruit new owners to the program, as well as maintain a good relationship with participating owners and is committed to providing owners with prompt and professional service. The regulations define when the HACSD must disallow owner participation in the program, as well as the circumstances when the HACSD may use its discretion to disapprove or otherwise restrict owner participation.

## REQUEST FOR TENANCY APPROVAL

[24 CFR 982.302, 982.305(b), 982.308]

During the term of the voucher, the family must submit the RFTA and a copy of the proposed lease, including the HUD-prescribed tenancy addendum. If the owner uses a standard lease form for rental to unassisted tenants, the lease must be in such standard form (plus the HUD-prescribed tenancy addendum). 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 the HACSD/HUD model lease (including the HUD-prescribed tenancy addendum). The family must submit the RFTA in the form and manner required by the HACSD.

The owner and the voucher holder must both sign the RFTA.

If families are approved to lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an employer identification number or social security number, as well as a validation document supporting the number. Ownership will be verified through assessor's office records or a review of the grant deed. The HACSD will request a copy of the management agreement for owners being represented by a management company. The HACSD may request documentation of ownership such as a grant deed, copy of the current tax bill, or other documentation.

The HACSD will not permit the family to submit more than one RFTA at a time.

The HACSD will review the proposed lease and the RFTA documents to determine if they are approvable. The RFTA will be approved if:

The unit is an eligible type of housing.

The unit meets HUD's Housing Quality Standards (HQS), and any additional criteria identified in this Plan.

The rent is reasonable.

The proposed lease complies with HUD requirements.

The owner is approvable, and there is no owner conflict of interest.

The owner has not been debarred by HUD or the PHA.

There are no shared utilities with the exception of some special housing types, such as "flat rate" apartment complexes and mobile home parks.

The family is not leasing a property owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HACSD will waive this restriction as a reasonable accommodation for a family member with disabilities who provides documentation demonstrating a clear and compelling need for accommodation.

The owner's address is not the same as the assisted unit, except for some special housing types and Section 8 Homeownership.

In addition to the above, if the gross rent exceeds the payment standard at the time a family initially receives assistance in the unit (new admissions and moves), the family share of rent may not exceed 40 percent of the family monthly-adjusted income. Exempt income may be included in the 40 percent calculation to enable families with a large amount of exempt income, such as families with foster children, to qualify for adequately sized housing.

## **UNIT SIZE SELECTED**

[24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the voucher. There are three criteria to consider:

Subsidy Limitation: The payment standard for a family shall be the *lower of*:

The HACSD payment standard amount for the family voucher size; or

The HACSD payment standard amount for the unit size rented by the family; or

The contract rent and utilities (gross rent).

Utility Allowance: The utility allowance used to calculate the gross rent is based on the lower of the actual size of the unit the family selects or the family's voucher size. As a reasonable accommodation, a person with a disability who provides medical verification of higher utility costs due to the disability may receive a higher utility allowance of 10 percent over the standard utility allowance for the utility that is more costly due to that person's disability.

Housing Quality Standards: The standards allow a maximum occupancy of two persons per sleeping area, as shown in the table below. Sleeping areas would include: living room, bedroom, den, dining room, library, or other rooms that may be used for sleeping.

A sleeping room will only be considered a bedroom for payment standard and utility allowance purposes if it was designed to be used as a bedroom or to be converted to

a bedroom, is private with a door that closes, and has a window that opens to the outside for light and ventilation. The room will not be considered a bedroom for payment standard or utility allowance purposes if the room is designed for another purpose; used as a corridor to access another room; or if it has something installed that indicates it has another use, such as a water heater, washer/dryer hookups, gas line for a stove, etc.; or if it is not accessible from inside the main dwelling unit, such as in an outbuilding; or if the sleeping room is only accessible through the garage or backyard. A bedroom conversion must also have the proper permit from the local code enforcement agency in order to be considered a bedroom for payment standard and utility allowance purposes.

### **HQS GUIDELINES FOR MAXIMUM OCCUPANTS**

<b>Unit Size</b>	<b>Maximum Number Allowed in Household*</b>
0 Bedroom	2
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

\*These guidelines are for an average unit. If there is a den, library or dining room or other room that may be used for sleeping, in addition to the living room, these standards may be increased. For example, a two-bedroom house with a living room and a den may have room for up to eight persons without violating HQS space requirements.

## **RENT LIMITATIONS**

[24 CFR 982.507]

The HACSD will make a determination as to the reasonableness of the proposed rent in relation to comparable modest, non-luxury unassisted units available for lease. Rent reasonableness for standard dwelling units will be determined upon approval of a new lease; prior to an owner rent increase; and if the annual small area fair market rents are reduced by ten percent or more 60 days prior to the HAP contract anniversary.

Rent reasonableness determinations must be conducted on rents for mobile home pads annually. All active participant files must contain a copy of the most current rent

reasonableness determination.

By accepting a monthly housing assistance payment from the HACSD, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units on the premises. Units in a tax credit or other types of rent-restricted properties are considered assisted units and are not subject to this requirement. However, when a household receives tenant-based rental assistance (TBRA) provided by the Section 8 Program, Home Investment Partnership Program (HOME) or another funding source, the maximum allowable rent for the HOME assisted unit cannot exceed the applicable HOME rent limit. This means that the tenant's rental assistance payment plus the tenant's contribution towards rent cannot exceed the HUD-published High HOME rent limit for a High HOME rent unit, or the Low HOME rent limit for a Low HOME Rent unit. The owner may be required to provide the HACSD with information on rents charged elsewhere, such as rent rolls.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the HACSD. If a unit is determined, during the contract term, to exceed the reasonable rent, the owner and participant will be notified of the reasonable rent amount and the effective date of the rent reduction. The owner may refuse to accept the rent reduction, in which case, the HACSD will terminate the HAP contract with a 30-day contract termination notice.

## **DISAPPROVAL OF PROPOSED RENT**

[24 CFR 982.506]

At the family's request regarding an RFTA, the HACSD will negotiate with the owner to reduce the rent or pay for more of the utilities in the following instances:

The rent is not reasonable.

When the gross rent exceeds the payment standard upon initial approval of the unit, and it is determined that the rent is not affordable because the family share of rent and utilities would be more than 40 percent of the family's monthly-adjusted income.

If the rent is approved after negotiations with the owner, the HACSD will notate, date, and initial the RFTA or notate the file and continue processing. If the revised rent involves a change in the provision of utilities, the HACSD will notate, date and initial the changes on the submitted RFTA or will notate the file.

If the owner does not agree to the rent reduction after the HACSD has attempted to negotiate a revised rent, the family and owner will be notified in writing that the lease is disapproved and the family will be issued another RFTA.

## ELIGIBLE TYPES OF HOUSING

[24 CFR 982.601, 982.352]

The HACSD will approve the following types of housing, providing they meet all program requirements:

All eligible structure types which, are defined as a dwelling unit that is designed and used exclusively for permanent residential occupancy.

A mobile home that is designed to be set-up permanently in one location is eligible for Section 8 rental assistance.

Manufactured homes where the tenant leases the mobile home and the pad.

Manufactured homes where the tenant owns the mobile home and leases the pad.

Congregate facilities (only the shelter rent is assisted).

Single Room Occupancy (SRO).

Shared housing.

Group homes.

Travel trailers, motor homes, or other structures designed to be mobile or temporary **are not** eligible for Section 8 rental assistance. A unit that is registered with the Department of Motor Vehicles rather than the state Department of Housing and Community Development is not an eligible housing type.

A family can own a rental unit but cannot reside in it while being assisted, except in the cases of the family owning the mobile home and leasing the pad, a Section 8 Homeownership participant, or the owner of a cooperative. The owner of the assisted unit, except in the case of a mobile home owner leasing the pad, a Section 8 Homeownership participant, or the owner of a cooperative, may never benefit from the assistance. The owner of the assisted unit may never be a live-in aide for the family. In shared housing, the family may never, in any circumstances, reside with a resident owner who is a relative, unless an exception is granted for reasonable accommodation.

The HACSD may not permit a voucher holder to lease a unit that is receiving project-based Section 8 assistance or any other duplicative rental subsidies.

## **SECURITY DEPOSIT REQUIREMENTS**

[24 CFR 982.313]

The owner is not required to, but is encouraged to collect a full security deposit from the tenant.

Security deposits charged by owners may not exceed those charged to unassisted tenants, nor be more than the lesser of legal limitations or the maximum amount indicated on the lease.

## **TENANT SCREENING FOR SUITABILITY**

[24 CFR 982.307]

The HACSD will take into consideration any of the criteria for admission described in the chapter on eligibility factors.

The HACSD will not screen family behavior or suitability for tenancy. The HACSD will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in a tenancy.

The owner is responsible for screening and selection of the family that is approved for tenancy. At or before HACSD approval of the tenancy, the HACSD will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as [24 CFR 982.307(a)(3)]:

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 (including the use of medical or recreational marijuana) or other criminal activity that is a threat to the health, safety or property of others.

Compliance with other essential conditions of tenancy.

## INFORMATION TO OWNERS

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

In accordance with HUD requirements, the HACSD will furnish prospective owners, upon written or verbal permission from the family, the family's current address as shown in its records and, if known to the HACSD, the name and address of the landlords for the family's current and prior addresses.

The HACSD will provide documented information in the participant file regarding tenancy history for the past five years, if available, upon written permission of the family. Only the supervisors may provide this information. The HACSD will provide the following information, based on documentation in its possession:

Eviction history.

Documented damage to rental units.

Other documentation of tenancy history such as warning notices, or three-day notices.

The HACSD 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, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, 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.

A statement of the HACSD's policy on release of information to prospective landlords is applied uniformly to all families, and will be included in the family's briefing packet.

The owner may request the HACSD obtain and review criminal or sex-offender registration records for grounds to deny a tenant application or evict a tenant. The HACSD will charge the owner a fee based on the costs incurred by the HACSD, including the costs charged by the law enforcement agency, the HACSD staff time and administrative costs. The owner may not charge the tenant for this fee.

The HACSD **must not** release any criminal information or sex-offender information to the owner, but a Housing Supervisor will review the information, and if no information relevant to application or eviction is found, will notify the owner. If information relevant to the application or eviction is found, the Housing Supervisor will present his/her findings in writing to the Chief, who will authorize the findings and sign the letter issued to the owner. The letter will not specify the criminal or sex-offender history, but will merely state that there may be cause for denial or eviction of the tenant. If the owner sends documentation of needing specific information for an

eviction, the Chief must approve the release of any information in accordance with the regulations [24 CFR 5.903, 24 CFR 5.905].

The HACSD must **NEVER** release specific personal information to owners regarding their former Section 8 tenants.

### **OWNER DISAPPROVAL**

[24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The HACSD will disapprove the owner for the following reasons:

HUD, or another agency, has notified the HACSD in writing that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

The HACSD has debarred the owner by providing a notice to the owner, that is signed by the Chief or HACSD Deputy Director, notifying the owner that the owner is debarred from program participation, the debarment period, the address of the property or properties, and the reasons for debarment which may include: abusive or threatening verbal or physical behavior towards HACSD personnel or program participants, safety concerns at the property or properties, or serious or repeated HAP contract violations.

HUD has notified the HACSD in writing that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act, or another federal equal opportunity requirement, and such action is pending.

HUD or any other federal, state, or local agency has notified the HACSD in writing that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

Unless the lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The HACSD will waive this restriction as a reasonable accommodation for a family member who is a person with a disability and who provides documentation of a clear and compelling need for the accommodation.

In cases where the owner and tenant bear the same last name, the HACSD may, at its discretion, require the family and/or owner to certify whether they are related to each other in any way.

The HACSD will **never** issue a payment to the owner at the participant's address with the exception of some special housing types.

In cases where the payment is mailed to a post office box, and there is a question regarding the relationship between the owner and the tenant, the HACSD may submit a post office request to confirm the owner's physical address.

## **OWNER RESTRICTIONS AND PENALTIES**

If an owner has committed fraud or abuse, is guilty of frequent or serious contract violations, has not addressed safety concerns at the properties, or the owner or management has engaged in abusive or threatening physical or verbal behavior against HACSD personnel or program participants, the HACSD may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HACSD may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the HACSD will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance, the seriousness of the violations, and the number of violations. If debarment and/or penalty are warranted, the owner will be notified in writing by the Chief or HACSD Deputy Director of the reason for debarment/penalty, the debarment period or the penalty amount, and the reasons for the debarment/penalty.

Refer to chapter on fraud investigations for further information.

## **LEASE REQUIREMENTS**

[24 CFR 982.308]

The HACSD will review the lease for HUD required lease provisions. The tenant must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

Unless the lease was effective prior to June 17, 1998, the family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HACSD will waive this restriction upon verification of the need for reasonable accommodation for a family member who is a person with a disability.

The family and owner may submit a standard form of lease used in the locality by the owner that is generally used for other unassisted tenants on the premises. If the owner does not use a standard lease for rental to unassisted tenants, the owner may use another form of lease, such as a HACSD/HUD model lease. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

- The names of the owner and tenant;

- The address of the unit rented;

- The amount of the monthly rent to owner;

- The utilities and appliances to be supplied by the owner; and

- The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease.

The owner's lease must include the lead warning statement, and disclosure information required by 24 CFR 35.92(b).

The provisions required under the Violence Against Women Act (VAWA) for all leases executed after April 30, 2007, must be included.

The lease must state that drug-related criminal activity engaged in by the tenant, any household member, any guest on or near the premises, or any person under the tenant's control on the premises, is grounds for termination of tenancy.

The lease must state that the family may be evicted if the owner determines:

- Any household member is illegally using a drug.

- A pattern of illegal use of drugs by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The lease must state that the following types of criminal activities by a "covered person" are grounds for termination of tenancy:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises).

Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the residences by people residing in the immediate vicinity of the premises.

Any violent criminal activity on or near the premises by a tenant, household member, or guest.

Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must state that the owner may terminate tenancy if a tenant is:

Fleeing to avoid prosecution, custody, or confinement for a felony (high misdemeanor in New Jersey) after conviction of a crime or attempt to commit a crime.

Violating a condition of probation or parole imposed under state or federal law.

## **ACTIONS BEFORE LEASE TERM**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

The HACSD has inspected the unit and has determined that the unit satisfies HQS.

The HACSD has determined that the rent charged by the owner is reasonable.

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum.

The HACSD has approved the lease in accordance with program requirements.

For the initial lease for the unit if the gross rent exceeds the payment standard, the family share (total family contribution) is not more than 40% of the family's monthly-adjusted income (may include exempt income).

A determination has been made the family is eligible for a HAP payment.

## **SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. However, the HACSD must be informed in advance of all separate agreements and must approve or disapprove of separate agreements. Owners are prohibited from collecting or paying, and tenants are prohibited from paying or receiving additional rent or other credits not

authorized by the HACSD. Owners are prohibited from charging for items normally included in the rent of unassisted units.

Owners and families may execute separate agreements for services, appliances, and other items not included in the lease, as well as special purpose charges, such as recycling fees. Any appliances, services or other items, 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.

The family must pay a minimum of 30 percent of its monthly-adjusted income for rent and utilities and is not allowed to receive rent credits, such as in the case of a move-in special. If there is a temporary rent reduction/credit, the HACSD will compute the reduced contract rent along with the appropriate adjustment in the HAP and notify the owner and family in writing. The family may accept a credit for security deposit.

## **CONTRACT EXECUTION PROCESS**

[24 CFR 982.305(c)]

The HACSD cannot enter into a HAP contract if a family is in zero HAP status. In that case, the HACSD must deny the RFTA. However, if the family is eligible for assistance, an RFTA may be processed.

The HACSD prepares the HAP contract for execution. The family and the owner will execute the lease agreement, and the owner and the HACSD will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HACSD will retain copies of all signed documents. The beginning and ending dates of the lease and the contract MUST match.

The HACSD may change the amount of its assistance or contract rent with a contract amendment. Changes in lease term and utilities require a new contract.

The HACSD makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed (signed and dated) more than 60 days after commencement of the lease term, and no payments will be made until the contract is executed. However, regardless of the execution date of the contract, the beginning and ending dates of the contract must always match the beginning and ending dates of the lease.

The HACSD representatives, Housing Aide or above, are authorized to execute a contract on behalf of the HACSD.

The HACSD may confirm verbally with the tenant the date the tenant received the keys for the unit. If the tenant fails to receive the keys for the unit as of the beginning date

of the contract, the HACSD may abate or collect HAPs from the owner and/or terminate the contract.

As required under VAWA 2013, once the HAP contract and lease have been executed and the family has been admitted to the program, the PHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

The owner or owner's representative must provide a telephone number to the HACSD.

## **CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new HAP contract and lease.

The HACSD will assign the HAP contract to the new owner only upon the written request of the new owner, accompanied by a copy of the escrow statement or other document showing the transfer of title, such as a recorded deed, the employee identification number or social security number of the new owner, and validation documents to verify employee identification or social security number.

The HACSD, upon approval of assignment of the contract to the new owner, will notify the new owner verbally or in writing that the contract assignment was approved, and the new owner assumes the conditions and obligations of the existing contract. The new owner will be mailed a copy of the contract, upon request.

If the new owner does not want an assignment of the contract, the HACSD will terminate the HAP contract with the old owner, since s/he is no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit. If the family enters into a new lease, the owner must enter into a new HAP contract with the HACSD.

# HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

## INTRODUCTION

**H**ousing Quality Standards (HQS) are the HUD minimum standards for assisted rental units for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, outbuildings, as well as the unit. Newly leased units must pass an HQS inspection before the commencement of the housing assistance payment (HAP).

On July 1, 2014, the 2014 Appropriations Act authorized the U.S. Department of Housing and Urban Development (HUD) to implement certain statutory changes per 24 CFR Parts 5, 943, and 982. The Appropriations Act allows Public Housing Authorities (PHAs) to transition to biennial Housing Quality Standards (HQS) inspections. HUD anticipates biennial HQS inspections will reduce the administrative and financial burden on PHAs. The HACSD has implemented biennial inspections.

The HACSD, or a contracted party, will inspect each unit under contract at least annually, unless unit is subject to biennial inspections. The HACSD will also have a Supervisor or other qualified person to perform, throughout the year, a statistically significant random sample of quality control (QC) inspections, as required by the HUD Section 8 Management Assessment Program (SEMAP). The QC inspections will ensure program consistency, and ensure that the HACSD's required standards are being met. This chapter describes the HACSD procedures for performing HQS and other types of inspections, as well as the standards for the timeliness of repairs. In addition, this Chapter explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HACSD requirements.

## **INSPECTION TYPES AND GUIDELINES**

[24 CFR 982.401(a), 982.405]

Inspectors must obtain "effective consent" before entering the unit to conduct an inspection. This means the inspector should:

- Clearly communicate that they seek entry as an inspector of the HACSD and the purpose of the visit is to conduct an HQS inspection.
- Identify who has legal control over the unit and the authority to admit the inspector. A prospective tenant who has not yet moved into the unit does not have the authority to admit the inspector unless written authorization from the owner is provided to the HACSD.
- Conversely, an owner/manager cannot admit the inspector if the tenant has moved into the unit, unless written authorization from the tenant is provided to the HACSD.
- A neighbor or babysitter does not have the authority to admit the inspector unless written authorization from the tenant is provided to the HACSD.
- A minor under the age of 18 never has the authority to admit the inspector.

The HACSD may adopt local requirements of acceptability in addition to those mandated by HUD regulations.

Efforts may be made to encourage owners to provide housing above HQS minimum standards. In addition, the HACSD will not promote any additional criteria likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service when the unit is inspected.

If the tenant is responsible for supplying the stove and/or refrigerator, the HACSD will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify, by telephone or in writing, the date the appliances are in the unit and working as designed. The HACSD will not conduct a re-inspection. The term of the lease and HAP contract will start on the date of the certification by the family that the stove and/or refrigerator are in the unit and working as designed.

There are five types of inspections the HACSD performs:

1. Initial/move-in: Conducted after receipt of the RFTA.

2. Annual/Biennial: Must be conducted within 12 or 24 months of the last annual inspection, dependent on if the unit is scheduled for biennial inspection.
3. Move-out/vacate: May be conducted, upon request, to observe and document reported excessive tenant damage in order to make a determination of tenant violations of the lease.
4. Special/complaint: At request of owner, family, an agency, or another third party.
5. Quality Control (QC): This inspection involves a required minimum random sample of previously completed inspections.

### **INITIAL HQS INSPECTION**

[24 CFR 982.401(a), 982.305(b)(2)(i)]

### **TIMELY INITIAL HQS INSPECTION**

All units must pass an HQS inspection prior to the approval of a lease to determine that the unit meets HQS. If a HUD-VASH family selects a unit that passed a HQS 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 Section 982.305.

The HACSD will attempt to make telephone contact in a timely manner after receiving an RFTA. The HACSD will inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination after the receipt of the fully completed RFTA. It may take longer to inspect the unit and notify the family and owner in instances when the unit is not available for inspection, when the owner or tenant could not be reached, or if the owner or tenant were unavailable for scheduled inspection(s).

The HACSD will make every reasonable effort to conduct timely initial HQS inspections for the family.

The initial inspection will:

Determine if the unit and property meet HQS as defined in this Plan

If the unit fails the initial HQS inspection, the owner and/or the tenant will be advised to notify the HACSD once required repairs are completed.

After an initial inspection, the owner may have up to 30 calendar days to correct the items noted as "fail." Depending on the amount of fail items, the complexity of work

to be done, and weather conditions that may delay the work, the owner may request an extension of time to correct fail items. These requests will be considered on a case-by-case basis.

The HACSD is required to conduct a follow-up inspection on initial inspections if the unit does not pass HQS requirements. The owner will be allowed up to three re-inspections for repair work to be completed. If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit. The HACSD will issue written notification to the family and the owner of the RFTA denial, and will send a RFTA packet to the family.

## **ANNUAL/BIENNIAL HQS INSPECTIONS**

[24 CFR 982.405(a)]

The HACSD conducts an inspection in accordance with HQS at least annually, unless unit is subject to biennial inspections, as required by SEMAP. Annual inspections are not linked to the annual recertification. Special inspections may be scheduled, upon request, between anniversary dates.

The landlord must correct HQS deficiencies that cause a unit to fail, unless the fail is the tenant's responsibility.

The family must allow the HACSD to inspect the unit at reasonable times with reasonable advance notice [24 CFR 982.551(d)]. The HACSD considers a reasonable advance notice to be five days.

Inspections and re-inspections will be conducted on business days only, or on weekends as a reasonable accommodation for the disabled.

The HACSD reserves the right to allow a landlord to provide a self-certification of completion of repairs when non-emergency repairs are identified. This certification may be used instead of a re-inspection of the unit as verification that all HQS deficiencies have been corrected. The self-certification is allowed only for annual recertification and QC inspections (not for initial inspections or other types of inspections or in the case of life-threatening deficiencies requiring 24-hour repair). Self-certification requires the owner to complete all required repairs; inspect the unit to verify the tenant repairs are complete; sign the self-certification form; and collect the tenant's signature verifying that all repairs are complete. The HACSD may require third-party signatures as verification of repairs in addition to or instead of the owner self-certification form. If it is determined at a later date that the certified repairs were not made, therefore making the unit ineligible, the HACSD reserves the right to collect back HAP payments for the total amount of time that the unit was ineligible; terminate

the HAP contract; and/or disbar the owner/landlord from further participation in the Housing Choice Voucher Program.

If the HACSD has made two failed attempts to inspect the unit and/or the family has failed to have their unit inspected within 45 days of the original inspection appointment date, the HACSD will consider the family to have violated a family obligation, and the family's assistance may be terminated in accordance with the termination procedures in the Plan. "Failed attempt" is defined as: (1) No suitable individual present at the scheduled appointment date/time; and/or (2) Rescheduled inspection appointment requested by the family prior to or after the original inspection appointment date.

### **TIME STANDARDS FOR REPAIRS**

Emergency items that endanger the family's health or safety must be corrected by the owner or family within 24 hours of notification.

For non-emergency items, repairs must be made within 30 days.

The tenant/owner will be allowed up to two (2) re-inspections for failed and or missed inspections. Once the maximum number of failed re-inspections has occurred, the HACSD will issue written notification to the family and the owner of the HAP contract termination.

For major repairs and repairs delayed due to weather conditions or other extenuating factors, the Housing Specialist may approve an extension beyond 30 days. The extension request should be made in writing by the owner at least one week prior to the due date. The extension will be made for a period of time not to exceed 120 additional days. Extensions will not be approved beyond the certification date.

### **RENT INCREASES OR EXTENSIONS ON 30-DAY MOVE-OUT NOTICES**

Contract rent increases or extensions on 30-day move-out notices will not be approved if the unit is in a failed condition.

### **HQS BREACH**

The inspector will determine if an HQS breach as identified in 24 CFR 982.404(b) is the responsibility of the family. Families may be given extensions to cure HQS breaches. However, the family will be issued a notice of termination of assistance if the HQS breach is not corrected by the initial deadline.

### **MOVE OUT/VACATE INSPECTION**

A move-out inspection may be performed upon landlord request to observe and document possible tenant lease violations.

### **SPECIAL/COMPLAINT INSPECTION**

[24 CFR 982.405(c)]

The HACSD will conduct a complaint inspection when it receives landlord or tenant notice that the unit does not meet HQS.

The HACSD may conduct a special inspection based on information from third parties, such as neighbors or public officials.

The HACSD will inspect only the items that 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 a unit is reported to have a bedbug infestation, the HACSD will not inspect the unit but will notify the landlord/owner and tenant that the condition may be in non-compliance with HQS standards and, if so, must be remedied in a timely manner within 48 hours of notification from the HACSD. The landlord/owner shall contact an extermination professional for an immediate inspection. The landlord/owner shall advise the HACSD of the results of the inspection and the treatment plan within seven days of the notice of suspected HQS non-compliance. If treatment is needed, it is the responsibility of the landlord/owner and must begin promptly. If a bedbug infestation is present, the treatment plan may take several weeks to complete. The landlord/owner may be allowed up to 60 days to complete the process and shall provide HACSD verification that it has been completed and the infestation remedied. Failure to complete the treatment and provide verification may result in abatement of the HAP. Families in the affected unit must cooperate with the treatment process. Participant failure to cooperate may result in program termination.

### **QUALITY CONTROL INSPECTION**

[24 CFR 982.405(b)]

Housing Supervisors or other qualified personnel will conduct the SEMAP-required minimum number of quality control (QC) inspections. The purpose of QC inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure consistency among inspectors in the application of HQS.

The sampling of files will include recently completed inspections (within the three prior months) reflecting a representative sample of neighborhoods, types of inspections (initial, transfer and annual), and inspectors.

## **ADDITIONAL HACSD HQS CRITERIA**

[24 CFR 982.401(a)]

The HACSD adheres to HUD HQS, as well as the following local standards:

### **LOCAL STANDARDS**

[24 CFR 982.401(a)(4)]

No interior door double-cylinder deadbolt locks or interior door locks that unlock only from the outside of the room are permitted. An exception may be made as a reasonable accommodation.

All units must contain an operable Carbon Monoxide Detector.

No double-cylinder deadbolt locks are allowed on an exterior door unless the unit has another accessible exterior door without said lock. An exception may be made as a reasonable accommodation.

If bedrooms have security bars, at least one window in each bedroom must have no security bars or security bars with a quick release device usable and accessible to a small child. No exceptions.

The heat source must be adequate for the unit, permanently affixed, properly installed and safe. A wood fireplace alone is not an acceptable heat source. Acceptable sources of heat include gas or electric wall heaters, forced-air heating systems, electric heat pumps, etc.

Water heaters shall be supported and strapped to prevent movement during an earthquake

## **EMERGENCY REPAIR ITEMS**

[24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

Lack of security for the unit;

Waterlogged ceiling(s) in imminent danger of falling;

Major plumbing leaks or flooding;

Strong smelling natural gas leak or fumes;

Electrical problem likely to cause shock or fire;

No heat when outside temperature is below 65 degrees Fahrenheit and temperature inside unit is below 65 degrees Fahrenheit;

Utilities not in service;

No running water;

Lack of functioning toilet;

Jagged, broken glass where someone could be injured;

Obstacle which prevents tenant's entrance or exit;

Inoperable or missing smoke/carbon monoxide detector

Other immediate observable danger(s) to the health and safety of the family.

The HACSD may give a short extension of not more than 24 additional hours whenever the responsible party cannot be notified, or it is impossible to complete the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified, or it is impossible to make the repair, the proper authorities will be notified by the HACSD. The HACSD will take the necessary steps to advise and assist the family on relocation, providing the hazards were not a result of actions, beyond normal wear and tear, of the family.

If the emergency repair item(s) are not corrected in the time period required by the HACSD and the owner is responsible, the housing assistance payment will be abated and the HAP contract may be terminated.

If the emergency repair item(s) are not corrected in the time period required by the HACSD and it is an HQS breach that is a family obligation, the HACSD will terminate the assistance to the family with a 30-day termination notice.

### **SMOKE/CARBON MONOXIDE DETECTORS**

An inoperable or missing smoke/carbon monoxide detector will be treated by the HACSD as a 24-hour fail item.

The owner must install working batteries in the smoke/carbon monoxide detectors upon initial lease. After that, the family must replace the batteries when the need arises.

If the HACSD determines that the family has purposely disconnected the smoke/carbon monoxide detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours.

The HACSD will issue a verbal warning to any family determined to have purposely disconnected the unit's smoke detector. The warning will state that deliberate disconnection of the unit smoke detector is considered a violation of the HQS. The family's assistance may be terminated for multiple violations of this requirement.

## **DETERMINATION OF RESPONSIBILITY**

[24 CFR 982.404, 982.54(d) (22)]

Certain HQS deficiencies are considered the responsibility of the family:

Tenant-paid utilities not in service;

Failure to provide or maintain family-supplied appliances;

Failure to allow the owner access to the premises to make repairs after reasonable notice was given;

Damage to the unit or premises beyond normal wear and tear caused by a household member or guest:

"Normal wear and tear" is defined as items that could not be charged against the tenant's security deposit under state law or court practice.

The HACSD will attempt to make a determination of family or owner responsibility. The owner or tenant may appeal the HACSD determination by phone or in writing and must provide documentation from an industry expert, such as a plumber or electrician, to substantiate the appeal.

The owner is responsible for vermin infestation, even if caused by the family's living habits. However, if an infestation caused by the family's living habits is serious and repeated, it may be considered a lease violation and the owner may evict the family for serious or repeated violations of the lease. The HACSD may terminate the family's assistance on that basis.

If the family is responsible but the owner carries out the repairs, the owner may bill the family for the cost of the repairs and the family's file will be notated regarding the family violations.

## **CONSEQUENCES IF OWNER IS RESPONSIBLE**

CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet HQS for items that are the owner's responsibility, the owner must complete the necessary repair(s) in the time period specified by the HACSD. If the necessary repairs are not made within the required time period, the Housing Assistance Payment (HAP) to the owner will be abated on the first of the following month.

### **ABATEMENT**

A notice of abatement will be sent to the owner, and the abatement will be effective the first of the month following the deadline for correction.

The HACSD will inspect abated units within five business days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The owner may not request payment from the tenant for the HAP not received due to abatement.

### **EXTENSION IN LIEU OF ABATEMENT**

The HACSD may grant an extension in lieu of abatement in the following cases:

The owner has a good history of HQS compliance.

The failed items are minor in nature.

There is an unavoidable delay in completing repairs, due to verifiable difficulties in obtaining parts or contracting for services.

The owner makes a verified good faith effort to make the repairs.

The repairs are delayed due to verifiable climate conditions.

The extension will be made for a period of time, not to exceed 120 additional days. At the end of that time at the HACSD's discretion, if the work is not completed or substantially completed, the HACSD will terminate assistance.

## **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 contract termination notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the HACSD may rescind the termination if the tenant chooses to remain in the unit. Only one HQS inspection may be conducted after the termination notice is issued.

## **CONSEQUENCES IF FAMILY IS RESPONSIBLE**

[24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the HACSD will require the family to make any repair(s) or corrections within 30 days. The owner's rent will not be abated for items found to be the family's responsibility.

If the repair(s) or correction(s) are not made by the deadline, the HACSD will issue a notice to terminate assistance to the family, along with an opportunity to request an informal hearing, and an owner notice to terminate the HAP contract on the same date. If the family requests an informal hearing, the HAP must continue until a decision is rendered. In addition, the owner must be notified that the HAP will continue until a hearing decision is rendered.

RESERVED

Chapter  
**9**

## **OWNER PAYMENTS, RENT LIMITS AND RENT REASONABLENESS**

[24 CFR 982.308, 982.451, 982.503, 982.504, 982.505, 982.506, 982.507, 982.508, 982.509, 982.514, 982.515, 982.517,]

### **INTRODUCTION**

**T**his chapter discusses the HACSD processes and procedures for Housing Choice Voucher rent reasonableness determinations, payments to owners, and rent adjustments. It is the HACSD's responsibility to ensure that the rents charged by owners are reasonable based upon modest, non-luxury unassisted comparables in the area, as specified in 24 CFR 982.507(b).

### **RENT LIMITATIONS**

The rent to owner is limited by rent reasonableness [24 CFR 982.507].

The HACSD must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

A unit cannot be approved if the family will be in zero HAP status.

At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, whenever the gross rent exceeds the payment standard, the family's rent share may not exceed 40 percent of the family's monthly-adjusted income [24 CFR 982.508]. The HACSD has determined the 40 percent affordability calculation may take into consideration exempt income to better allow families greater housing choice.

During the initial term of the lease, the owner may not raise the rent to the family. After the initial lease term, the owner may request a rent adjustment with a 60-day written notice to the HACSD [24 CFR 982.308(g)]. A rent adjustment is subject to the approval of the HACSD for rent reasonableness. An owner who collects a rent increase from the family without the permission of the HACSD is in breach of the HAP contract

and subject to repayment of HAP paid during the period of time the owner was collecting the increased rent.

## **RENT REASONABLENESS DETERMINATIONS**

[24 CFR 982.507]

The HACSD will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other modest comparable unassisted units in the market. This applies to all programs.

The HACSD will not approve a lease until initial rent to owner is determined reasonable. The HACSD must re-determine the rent to be reasonable before any of the following:

- Any increase in the rent to the owner.
- Before entering into a new HAP contract. HACSD will not execute a HAP contract until it has documented that the charged rent is reasonable.
- If there is a ten percent decrease in the published SAFMR (for the unit size rented by the family) in effect 60 days before the contract anniversary, as compared with the SAFMR in effect one year before the contract anniversary.

Rent reasonableness determinations must be conducted annually for mobile home space rents. All HACSD active participant files will contain documentation of the last applicable reasonable rent determination.

The HACSD must re-determine rent reasonableness if directed by HUD or based on a need identified by the HACSD's auditing system. The HACSD may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the HACSD.

The owner will be advised that upon acceptance of each monthly payment, the owner is certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the area.

If requested, the owner must give the HACSD information on rents charged by the owner for other units on the premises or elsewhere. Units of a density bonus or tax credit property are not considered comparable, because they are considered to be assisted. When a household receives tenant-based rental assistance (TBRA) provided by the Section 8 Program, Home Investment Partnership Program (HOME) or another funding source, the maximum allowable rent for the HOME-assisted unit cannot exceed the applicable HOME rent limit. This means that the tenant's rental assistance payment

plus the tenant's contribution towards rent cannot exceed the HUD-published High HOME rent limit for a High HOME rent unit, or the Low HOME rent limit for a Low HOME Rent unit. The HACSD may request additional information, such as owner rent rolls, if it appears that the owner has charged higher rents to program participants or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from the contracted Rent Reasonableness System, newspapers, realtors, professional associations, owners, market surveys, MarketPoint Advisors, and other available sources.

The market areas for rent reasonableness determinations are the nearby neighborhoods or communities of the subject unit. Subject units within a defined housing market area will be compared to similar units within the same area. Generally, bedroom size and location of units are the most important rent reasonableness criteria.

The following items shall be used by the HACSD for rent reasonableness comparability determination:

- Size (number of bedrooms/square footage)
- Location
- Quality
- Unit age
- Unit type
- Complex and/or unit amenities
- Housing services
- Maintenance
- Utilities provided by the owner in accordance with the lease

### **RENT REASONABLENESS METHODOLOGY**

The HACSD will compare the rent to the average or mid-range rents for similar non-luxury, modest units in the locality to determine rent reasonableness. The HACSD uses the Emphasys Rent Reasonableness System as the primary tool to determine rent reasonableness. For unusual unit types such as houses, mobile homes, duplexes, townhouses, or rented spaces, the HACSD uses various sources of information. These sources include the internet, newspaper advertising, and information from real estate professionals. If no comparable information is available for unusual unit types, staff will provide information on the closest comparable unit type available.

By accepting each monthly Housing Assistance Payment (HAP) from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must provide the PHA information when requested on rents charged by the owner for other units in the premises or elsewhere.

## **OWNER PAYMENTS**

[24 CFR 982.451]

Once the HAP contract is executed, the HACSD will begin forwarding payments to the landlord by mail or electronic deposit. Each month, around the first working day of the month, the County of San Diego will pay via direct deposit or otherwise disburse housing assistance payments to the landlords.

Payments not received by the 10<sup>th</sup> working day of the month will be replaced upon request from the payee, and a stop payment will be put on the check.

The owner must notify the HACSD of a missing or incorrect payment within one year of the payment due date.

Checks not cashed by the owner will be reissued if the HACSD is notified within one year of the issue date of the check.

## **EXCESS PAYMENTS**

The total of rent paid by the tenant plus the housing assistance payment to the owner may not exceed the contract rent. The HACSD will issue the Notice to Owner – Incorrect Payment form to the landlord for the amount of HAP overpaid in error. The owner must immediately return any excess payments to the HACSD within 30 days from the date of the issued notice. The HACSD may deduct the monies owed from future payments to the landlord if the overpaid HAP is not refunded timely.

Owners who do not return excess payments may be subject to penalties, as outlined in the "Owner or Family Debts to the HACSD" chapter of this Plan.

The owner may not demand or accept any rent payment from the tenant in excess of the amount determined by the PHA on the HAP Change notice and must immediately return any excess rent payment to the tenant. This action is subject to HAP contract and lease termination for program violation.

**LATE PAYMENTS TO OWNERS**

[24 CFR 982.451]

In keeping with generally accepted practices in the local housing market, the HACSD must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The HACSD will, upon owner request, pay a reasonable late fee for housing assistance payments not mailed to the owner or electronically deposited by the first working day of the month. The late fee will conform to the late fee for the tenant on the owner's lease, or a reasonable late fee, as determined by the HACSD. An owner is not entitled to late fee in the first two calendar months of the HAP contract term.

Proof of date of mailing is:

- Date posted from the HAP register.

Proof of date owner received is:

- Five calendar days after date of mailing by the HACSD.

In the case of payments electronically deposited into the owner's designated bank account, the date the bank shows as the deposit date will be the official date of record and will be the determining factor in cases involving late payment penalties.

The HACSD will not be obligated to pay any late payment penalty if the HACSD determines that late payment is due to factors beyond the HACSD's control, such as a delay in the receipt of program funds from HUD, third-party technical failures, or a post office delay. The HACSD will use only administrative fee income or the administrative fee reserve as its source of late payment penalty payments.

RESERVED

# RECERTIFICATIONS, INTERIMS AND OTHER REGULAR ACTIVITIES

[24 CFR 982.516]

## INTRODUCTION

**I**n accordance with HUD requirements, the HACSD will reexamine the income, assets, deductions, allowances and household composition of families at least annually. The HACSD will also conduct an annual (or biennial) Housing Quality Standards inspection. Families will be provided accurate annual and interim rent adjustments, and will be given reasonable notice of rent increases. All annual activities are coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This Chapter defines the HACSD's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

## APPOINTMENTS

In the administration of the programs, families are required to be available for various reasons including eligibility interviews, program review conferences, inspection appointments, or overpayment conferences. Families scheduled for an appointment must attend that appointment, or call to reschedule the appointment. The family will generally receive two appointment opportunities.

If the family fails to attend a scheduled appointment, and fails to call to reschedule, the HACSD may either:

Reschedule the appointment one final time; or

Send a notification of termination of assistance, and information about the opportunity for an informal hearing.

The family will not be offered a third appointment unless they can provide documentation of an emergency situation that prevented them from attending the appointments, or if requested as a reasonable accommodation for a person with a disability.

### **PERSONS WITH DISABILITIES**

Persons with disabilities unable to come to the HACSD office will be granted an accommodation by conducting the interview at the person's home or by telephone, upon verification of disability and disability-related need for the accommodation.

### **MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

**If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the HACSD may terminate assistance, request repayment of housing assistance, and refer the family file/record to the proper authorities for appropriate disposition, including prosecution.**

### **ZERO HAP STATUS**

Participants in zero HAP status will remain on the program for 180 days and eligible for reinstatement of benefits if their circumstances change within the 180 days. After 180 days, if the family continues to be ineligible for benefits, the family will be dropped from the program. The family may be transferred to another unit if it is determined the family will be eligible for assistance at another unit, but the family must lease-up within the initial voucher term.

### **ANNUAL ACTIVITIES**

[24 CFR 982.516, 982.405]

There are two activities the HACSD must conduct every 12 months.

Recertification of family income, assets, deductions, allowances, and composition; and

HQS inspection; the HACSD has the option to conduct a biennial inspection for that household.

The HACSD may conduct these activities together or separately. Currently the HACSD has decoupled the recertification process from the inspection process. The HACSD produces a monthly listing of units under contract scheduled for annual review. The

participants on this listing are reviewed to determine if an annual or biennial Housing Quality Standards inspection should be scheduled.

The review of family income, assets, and composition may be conducted through the mail.

## **ANNUAL RECERTIFICATION**

[24 CFR 982.516]

Families must be recertified at least annually.

## **MOVES BETWEEN REEXAMINATIONS**

When families move to another dwelling unit, a reexamination will be scheduled unless the eligibility booklet was signed within 120 days of the execution of the new HAP contract for the new unit. The anniversary date will always be changed to the first day of the month in which the HAP contract was executed.

Income limits are used only upon initial admission to the program and are not applicable upon reexamination or transfer. However, the 40% limitation rule does apply to a transfer.

Families may not transfer their assistance more than once every 12 months unless there are special circumstances, such as an owner termination of tenancy or the need for a reasonable accommodation for a person with a disability.

## **REEXAMINATION NOTICE TO THE FAMILY**

The HACSD maintains a reexamination tracking system. The household will be notified, in advance of the anniversary date, by mail or telephone. An interview may be scheduled, or the reexamination may be conducted through the mail. If requested as a reasonable accommodation for a person with a disability, the HACSD will contact the person by telephone, through a relay service for the hearing impaired, or in another appropriate manner. The HACSD will also mail the notice to a third party, if requested, as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification of disability and disability-related need for the requested accommodation.

## **PROCEDURE**

The HACSD's procedure for conducting annual recertifications requires recertification through the mail and a HQS inspection of the assisted unit if warranted.

The HACSD will mail recertification forms to the family to complete and return to the office by a due date specified in the notification letter. The HACSD will use the documents to process the annual reexamination.

The HACSD or its contracted representative will schedule the date and time of the inspection appointment and mail an appointment or biennial inspection notice to the family; and

Conduct the inspection and issue appropriate notices.

If family does not make the unit available for inspection, notices of action terminating assistance must be mailed to both the family and the landlord at least 30 days in advance of the termination date.

### **COMPLETION OF ANNUAL RECERTIFICATION**

The HACSD will complete all recertifications at least 30 days prior to the family's anniversary date, unless a delay is caused by a family action or inaction.

The notice of rent change is mailed to the owner and the tenant. The HACSD does not require signatures. If the family disagrees with the rent adjustment, it may request an informal review.

### **COLLECTION OF INFORMATION**

[24 CFR 982.516(f)]

The HACSD has established recertification procedures that ensure that the income data provided by families is complete and accurate.

The family must complete the recertification packet as a condition of continued program participation. Signatures of all adult family members, 18 years and older, and family members who will turn 18 years of age by the effective date of the recertification are required on the recertification packet.

### **REQUIREMENTS TO ATTEND**

If an interview is necessary, the head of household, spouse, or co-head are required to attend a recertification interview, show picture identification, and sign a certification in the presence of a housing representative.

Exceptions may be made as a reasonable accommodation for a person with a disability, or in emergency circumstances, such as hospitalization.

## **DOCUMENTS/INFORMATION REQUIRED TO RECERTIFY**

In the notification letter to the family, the HACSD will include instructions for the family to provide the following:

1. Documentation of income;
2. All forms and releases completed and/or signed and dated by all adult family members;
3. Documentation of assets;
4. Documentation of deductions/allowances;
5. Completed personal declaration form; and
6. Other information, as requested.

Releases and certifications altered or amended by the family are unacceptable and would be considered "failure to provide."

## **VERIFICATION OF INFORMATION**

The HACSD will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old as of the effective recertification date.

## **TENANT RENT INCREASES**

An advance notice of a tenant rent increase is mailed to the family at least 20 days prior to the scheduled effective date of the rent increase, unless the delay in notification was caused by an action or inaction of the family.

If a 20-day advance notice cannot be issued, the tenant rent increase will be delayed to the following month, unless the delay in notification was caused by an action or inaction of the family.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there may be a retroactive rent increase processed and a collection notice issued to the family for overpaid assistance.

An approved contract rent increase, in which the landlord provided proper 60-day notice to the HACSD, will be processed effective the date of the rent increase (even if it must be done retroactively). A contract rent increase will not be approved if the landlord failed to provide proper advance notice to the HACSD.

## **TENANT RENT DECREASES**

The HACSD will conduct an interim examination to process a family rent decrease upon the family's written request for the interim and submission of the necessary verifications. In conducting the interim, all family information must be reviewed to ensure that the reduction in family rent is correct and reflects all changes in family income and deductions that have taken place since the last examination.

A decrease in tenant rent will be processed in a timely manner. If the family causes a delay in the processing of the tenant rent decrease that results in the reexamination not being completed by the anniversary date, the rent change will be effective on the first day of the month following completion of the reexamination.

If the HACSD is responsible for a delay in processing the tenant rent decrease, the tenant rent decrease may be processed retroactive to the date the decrease should have been effective, and a supplemental payment is generally issued to the owner. In some circumstances, the supplemental payment may be issued to the tenant, as in the case of the tenant no longer residing in the unit.

## **INTERIM CHANGES**

[24 CFR 982.516]

Program participants must report in writing all changes in household composition, income or assets to the HACSD within 14 days of the change. The family must obtain prior HACSD approval for all household additions, except those due to birth, return of disabled or minor children to the household, adoption or court-awarded custody. The owner must approve additions to the household in writing, with the exception of additions due to birth, adoption, marriage, return of minor or disabled children to the household, or court-awarded custody.

## **PROCEDURES FOR PROCESSING THE CHANGES**

The HACSD will notify the family and the owner of any change in the housing assistance payment according to the following guidelines:

Increases in the Tenant Rent - If it is determined an interim is necessary to reflect an increase in tenant rent, the increase will be effective on the first of the month following a 20-day reasonable advance notice. However, if there was a delay in processing as a result of family action or inaction, the rent increase may be processed retroactively and a family repayment agreement executed.

An approved contract rent increase, in which the landlord provided proper 60-day notices to both the HACSD and the family, will be processed effective the

date of the rent increase (even if it must be done retroactively). A contract rent increase will not be approved if the landlord failed to provide proper advance notice to both the HACSD and the family.

Decreases in the Tenant Rent – These are generally effective the first of the month following the change, unless the delay was caused by family action or inaction. A tenant rent decrease cannot be processed until the family reports the change, requests a rent reduction in writing, and provides the necessary verifications. In some cases, a retroactive adjustment will be processed, providing the family has complied with its obligations. If there is family hardship, a provisional rent reduction may be processed based on the family's notarized statement. In this case, the verifications must be obtained later.

If a landlord requests a decrease in contract rent, the HACSD may grant the request with less than a 60-day notice to the HACSD provided that the family has also been noticed. Retroactive requests may be honored provided that it is not more than 90-days from the requested effective date.

### **PROCEDURES WHEN THE CHANGE IS PROCESSED BY THE HACSD IN AN UNTIMELY MANNER**

"Processed in a timely manner," means that the change goes into effect on the date it should when the family reports the change in a timely manner and provides all necessary verification. If the change cannot be made effective on that date due to an HACSD action or inaction, the HACSD has processed the change in an untimely manner.

In this case, a family rent increase will be effective after the required reasonable advance notice, and after completion of processing by the HACSD.

If the change resulted in a family rent decrease, and the family requested the decrease in a timely manner and provided all necessary verification, the rent decrease for the family will be calculated retroactively to the date it should have been effective, and the owner or participant will be mailed a supplemental payment for that amount.

### **REPORTING ADDITIONS TO OWNER AND THE HACSD**

Reporting changes in household composition to the HACSD is both a HUD and a HACSD requirement.

The HACSD will deny a family's request to add additional family members who are prohibited from program participation for the time period indicated in Chapter 3 of this Plan. In instances where a participation prohibition period is not indicated elsewhere

in this Plan, the prohibition period is three years, unless the HACSD determines extenuating factors.

The HACSD will not approve the addition of other adults/children to the household during the first 12 months after program admission, unless the additions are due to birth, marriage, adoption, court-awarded custody, or return of minor or disabled children to the household. Thereafter, the HACSD will deny a family's request to add more than a total of two people in a 12-month period, unless the addition is due to birth, adoption, court-awarded custody, marriage, return of disabled or minor children to the household, a live-in aide or foster children. Except for birth, adoption, court-awarded custody, marriage, return of disabled or minor children to the household, foster children, and live-in aides, each adult person added to the household must have current income and a steady income history for the last 12 months, and if employed, is required to be employed at least the equivalent of 32 hours per week at minimum wage (federal) or above for the past 12 months.

In cases where there is no court-awarded custody of a minor child or children due to the absence of the parent or legal guardian of the child and the child is living with the assisted family, the HACSD will apply the preponderance of evidence standard to determine if the family has physical custody of the minor child or children. The HACSD will accept documentation including, but not limited to, school records, public assistance payments and notarized sworn statements that demonstrate that the assisted family has actual physical custody of the minor child or children.

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

An exception to the income requirement may be granted if it would not be feasible to require the person to satisfy the 12 month work requirement. The HACSD may also waive this restriction as a reasonable accommodation to an assisted family member with a disability or offer the family the shared housing option if the family selects a unit that qualifies for shared housing.

Eligible additions cannot be added if the unit will be overcrowded, but the family may transfer to a larger unit.

Participation is always denied to:

Persons who have been evicted from public housing.

Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.

Persons who were part of a family whose assistance was terminated under the certificate or voucher program for program violations. (Determination will be made on a case-by-case basis depending on the reason for termination.)

Persons who commit, or have committed, drug-related criminal activity, that use marijuana (including medical or recreational uses), or violent criminal activity as outlined in this Plan. Persons who commit, or have committed, fraud, bribery or any other corrupt or criminal act in connection with any federal housing program, or state or local fraud involving public funds.

Persons who currently owe rent or other amounts to the HACSD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in threatening, abusive or violent behavior toward HACSD personnel or have had a pattern of two or more instances observed by two or more staff or other witnesses of abusive, vulgar, demeaning, or hostile written or oral language and/or gestures and body movement that denotes an implied threat, excessive hostility, or intimidation.

Persons who have been involved in any 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.

Persons who have been involved in any criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA.

Persons who will overcrowd the unit.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The income of the additional member will be included in the family income as applicable under the HUD regulations, once the person's admission to the household is approved by the HACSD and the owner. The HACSD will conduct a reexamination to determine such additional income and all other family income changes, and will make the appropriate adjustments in the housing assistance payment.

If the family does not obtain prior written approval from the HACSD, with the exceptions noted elsewhere, any person the family permits to move in will be considered an unauthorized household member. The family is responsible for full rent for the duration of time the unauthorized person was residing in the unit.

Families are required to report within 14 calendar days, family additions through court-awarded custody, birth, adoption, or minor or disabled children returning to the family.

A full interim reexamination will be conducted for any additions to the household, except for additions due to birth.

In addition, the family must obtain prior written approval from the owner for additions to the household other than by birth, adoption, a minor or disabled child returning to the family, or court-awarded custody. However, the owner may disapprove any additions to the household unless to do so would be a violation of law.

### **REPORTING ABSENCES TO THE HACSD**

Reporting changes in household composition is both a HUD and a HACSD requirement.

If a family member leaves the household, the family must report this change to the HACSD, in writing, within 14 calendar days of the change and certify as to whether the member is temporarily absent or permanently absent.

The HACSD will conduct an interim evaluation for changes that affect the total tenant payment in accordance with the interim policy.

When the family notifies the HACSD, it must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A notarized statement as to whether the family member is temporarily or permanently absent.

### **ZERO OR MINIMAL INCOME**

An interim reexamination does not affect the date of the annual recertification.

Families with zero or minimal income must submit a statement of income and expenses along with receipts every 30 days.

A family with minimal income has monthly income at or below the following level:

<b>Family Size</b>	<b>Minimal income</b>
1	\$200
2	\$250
3	\$300
4	\$350
5	\$400

6	\$450
7	\$500
8	\$550

Changes reported by participants that do not require an interim will be noted in the file by the staff person, or will be reflected on documents/statements provided by the family.

## **INTERIM REEXAMINATION POLICY**

### **Increases in Income**

The HACSD may conduct interim reexaminations when families have an increase in income in certain circumstances. Families are required to report all changes of income/assets, in writing within 14 days of the change. The HACSD may, at its discretion, conduct interim reexaminations in the following instances:

At the start and conclusion of the second 50 percent phase-in period of a family's Earned Income Disallowance.

If the family had previously been receiving zero or minimal income.

If it had not be possible to anticipate family income at the time of an examination.

If a provisional calculation had been conducted because verifications were not available at the time.

If it had been determined that a calculation error had occurred or the calculation was based on incorrect or incomplete information.

If there is an increase in income less than 90 days after an interim for a decrease in income has been conducted.

There is evidence or a pattern that the family is manipulating the program by a pattern of reducing income just prior to the annual recertification and increasing its income right after.

If it is discovered a family has a welfare sanction and the rent should not have been reduced.

To admit a family to the Family Self-Sufficiency Program.

Upon family request.

The HACSD **will** conduct an interim reexamination when the family's total household income increases over 80 percent of the HUD-published Area Median Income (AMI).

### **Decreases in Income**

Participants are required to submit a written request for review of their rent calculations when they have a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. The HACSD will not process a reduction in family rent until it receives a written request and appropriate documentation of the changes. In hardship cases, the HACSD may process a rent reduction based on the family's notarized statement and obtain verifications later. The HACSD will review all family income and deductions to ensure the interim rent reduction is correct and based on all current family information.

### **HACSD Errors**

If the HACSD makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error.

An HACSD error that resulted in underpaid HAP will be corrected retroactive to when the decrease would have been effective if calculated correctly. However, since it is the family's responsibility to notify the HACSD of a calculation error, with the exception of special circumstances the HACSD will not adjust the family's rent prior to the last action taken. A supplemental payment will be issued to the landlord for the HAP underpayment if the family still has the same owner. If the family has a new landlord, the underpayment will be issued directly to the family.

## **HOUSEHOLD COMPOSITION CHANGES THAT REQUIRE A CHANGE IN THE VOUCHER SIZE**

Providing the family is eligible for a larger voucher under the current subsidy standards, the voucher size will be increased if the family is in an appropriately-sized unit or if the family is transferring to an appropriately-sized unit.

If it is determined the unit does not meet HQS because the unit is overcrowded, the family must give notice to move if the family is eligible to move, or the assistance must be terminated within 60 days of the change in household composition that caused the unit to be overcrowded.

If it is determined that a reduction in the voucher size is required, the family must be given a minimum of a 60-day notice of intended action, effective the next annual reexamination or as soon as possible thereafter. If an error is discovered that resulted in the voucher size not being reduced at the appropriate time, the voucher size will be

reduced with a 60-day notice. The family must be issued and sign a new voucher reflecting the new voucher size.

**NOTIFICATION OF RESULTS OF RECERTIFICATIONS/  
INTERIMS**

[HUD Notice PIH 2011-65, 2015-05 (HA)]

The HUD form 50058 will be completed and transmitted as required by HUD.

RESERVED

# MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.354, 982.353, 982.355(a)]

## INTRODUCTION

**H**UD regulations permit families to move with continued assistance to another unit within the HACSD jurisdiction, or to a unit outside of the HACSD jurisdiction under portability procedures. The regulations also allow the HACSD the discretion to develop policies to define any limitations or restrictions on moves. This chapter describes the procedures for moves within and outside the HACSD jurisdiction; and the policies for restrictions and limitations on moves.

## MOVES

### RESTRICTIONS ON MOVES

[24 CFR 982.354, 982.552(a)]

Families will generally not be permitted to transfer their assistance during the initial term of the lease. Further, families will generally not be permitted to move more than once in a 12-month period. Exceptions to this policy may apply if the family can demonstrate a reason outside of the control of the family; the move is required due to a medical emergency; the move is needed as a reasonable accommodation to a family member with disabilities; there is a change of ownership and the HAP contract is not assigned to the new owner; or the move is the result of a family member being the victim of domestic violence, dating violence, or stalking. The family will also be allowed to move if it receives a valid landlord notice to terminate the family's tenancy after the lease term, providing the family has not committed serious or repeated lease violations.

Families will not be transferred unless the lease/rental agreement was properly terminated after the initial term of the lease with a 30, 60, or 90-day notice to move (issued by the tenant or landlord).

Families will not be eligible to move with continued program participation if they will be in zero pay status at the new unit.

The HACSD will deny the family permission to move if:

There is insufficient funding for continued assistance.

The family has violated a family obligation.

The family owes the HACSD or another PHA money. A Housing Supervisor may make exceptions to these restrictions as a reasonable accommodation or if there is an emergency reason for the move over which the participant has no control, so long as the participant is current on his/her repayment agreement **and** the family is not moving outside of the HACSD jurisdiction.

The family is ineligible because of criminal history or criminal activities.

### **ALLOWABLE MOVES:**

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in the section below.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].
- If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement. The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- 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 [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without

prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)]. The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

- If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the PHA based on a claim that the move is necessary 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, the PHA will request that the resident request the emergency transfer using form HUD-5383, and the PHA will request documentation in accordance with section 16-IX.D of this plan.
- HACSD reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.
- HACSD reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.
- HACSD may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.
- Before granting an emergency transfer, the PHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.
- HACSD has adopted an emergency transfer plan, which is included in this this plan and discusses external transfers to other covered housing programs.
- HACSD has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].

- HACSD determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, HACSD must issue the family a new voucher, and the family and HACSD must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HACSD must terminate the HAP contract for the family's old unit in accordance with the HAP
- contract terms and must notify both the family and the owner of the termination. The HAP
- contract terminates at the end of the calendar month that follows the calendar month in which
- the PHA gives notice to the owner. [24 CFR 982.403(a)]

## **PROCEDURE FOR TRANSFERS**

[24 CFR 982.354]

### **EXTENSION/RESCISION OF TRANSFER**

If the family does not locate a new unit, it may remain in the current unit if the owner allows the family to stay, the unit meets Housing Quality Standards, and the family and owner submit a written confirmation to the HACSD.

### **NOTICE REQUIREMENTS**

The initial briefing session will emphasize the family's responsibility to give the owner and the HACSD proper 30-day written notice of any intent to move.

The family must give the owner the legally required advance written notice of its intent to vacate and must forward a copy to the HACSD at the same time.

### **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, and there will be no overlapping assistance.

### **ASSISTANCE TERMINATION AND OVERLAPPING ASSISTANCE**

In a move, assistance stops at the old unit on the date the participant has notified the HACSD the participant will be vacating the unit, unless the participant and owner request an extension of the lease termination date in writing.

Unless the HACSD determines extreme documented extenuating circumstances, assistance on the old and new units may never overlap. The HACSD may never pay assistance on a unit beyond the end of the month the family moves.

## **PORTABILITY**

[24 CFR 982.353, 982.354, 982.355, PIH Notice 2016-09]

Portability applies to families moving out of or into the HACSD's jurisdiction and within the United States and its territories.

## **OUTGOING PORTABILITY**

[24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to tenant-based voucher assistance outside the HACSD's jurisdiction, anywhere in the United States that has an administering PHA. When a family provides written request to move outside of the HACSD's jurisdiction, the request must specify the area to which the family wants to move. Subsidy standards and income limits vary from PHA to PHA, and the HACSD will advise the family to contact the receiving PHA regarding its policies and procedures. The HACSD will make contact with the receiving PHA by mail, telephone, fax, or e-mail.

The HACSD may, if warranted by funding constraints and if permitted under the regulations, deny a family's portability to a higher cost area.

The HACSD will make its billing payments to the receiving PHA within 30 days of receiving Part II of form HUD-52665 from the receiving PHA and subsequent payments must be received by the receiving PHA no later than the fifth working day of each month.

If the HACSD does not receive a billing from the receiving PHA within 90 days of the initial expiration date of the voucher, the HACSD will contact the receiving PHA to ascertain the status of the family. If the family is not under lease, the HACSD may, based on available vouchers, advise the receiving PHA that it will not accept subsequent billings on behalf of the family. If subsequent billings are received after contact with the receiving PHA, the HACSD will return them and advise the receiving PHA to absorb the family. However, if the HACSD is advised at first contact that the family is under a HAP contract and the receiving PHA cannot absorb the family, the HACSD is required to accept the subsequent late billing.

Once the HACSD (initial PHA) sends the family's portability paperwork to the receiving PHA, the HACSD is no longer administering that family's voucher. The HACSD cannot provide assistance for the family beyond their intended move-out date. If the family requests an extension of their assistance, the receiving PHA must return the portability paperwork to the HACSD to reinstate the family's assistance. If the family then chooses to port, they must once again submit a written request to initiate the portability process.

The HACSD cannot accept the return of a family with an expired voucher, but will accept the return of a family with an active voucher, providing that family is returning no later than 90 days after the expiration of the initial voucher term.

### **Restrictions on Portability**

#### Applicants

If neither the head nor spouse had a domicile (legal residence) in the HACSD's jurisdiction at the date of initial application for assistance, the family may not be permitted to exercise portability upon initial issuance of a voucher unless the HACSD approves the move.

For a portable family not yet receiving assistance in the HACSD's jurisdiction, the HACSD must determine whether the family is eligible for admission under the receiving PHA's program. In order to make this determination, HACSD will advise the family regarding the receiving PHA's income limits.

#### Participants

The HACSD will not permit families to exercise portability if:

The family owes money to the HACSD, or if the family is delinquent on repayment of monies owed to any other PHA;

The family is ineligible to move as outlined elsewhere in this Chapter;

The family is being investigated for possible ineligibility for the program.

If a PHA denies a family's move into its jurisdiction, the PHA must offer the family an opportunity for an informal hearing for participants, an informal review for new admissions, and submit its hearing/review determination to the family within 60 days of the hearing/review decision.

A family cannot extend its move-out notice if a portability packet has been issued to the receiving PHA.

## **INCOMING PORTABILITY**

[24 CFR 982.353, 982.355]

### **Absorption or Administration**

The HACSD will accept a family with a valid active voucher from another jurisdiction, and administer or absorb the voucher. The family will be issued a "portability" voucher" by the HACSD, if it is administering the voucher. The term of the voucher will not expire before 30 calendar days from the expiration date of any initial PHA voucher.

If the initial PHA's voucher has already expired when the family arrives at the HACSD (i.e. the receiving PHA), regulations require the receiving PHA to contact the initial PHA to determine whether it will extend the voucher term. Any extensions granted to the portable family will be at the initial PHA's discretion. The HACSD will issue a portability voucher, according to its own subsidy standards. The family may receive a smaller or larger voucher size, if the subsidy standards of the HACSD differ from those of the initial PHA.

The family must submit an RFTA for an eligible unit to the HACSD during the term of the portability voucher. The HACSD may extend the portability voucher's term. Any extensions of search time provided are only valid in HACSD jurisdiction.

If the family decides not to lease in the HACSD's jurisdiction or moves out of the HACSD's jurisdiction, the HACSD must refer the family back to the initial PHA. Extensions on the voucher granted by the HACSD are no longer valid when a family decides not to lease in the HACSD's jurisdiction.

The HACSD must process the incoming portability and issue a voucher within two weeks unless:

- The voucher has expired. The HACSD will contact the initial PHA to determine whether initial PHA will extend the voucher term.

- The family has not contacted the HACSD.

- The family is a new admission and is determined not to be income-eligible.

- The documents provided by the initial PHA are not complete.

- The family fails to comply with the receiving PHA's procedures – for example, refuses to complete disclosure forms or certifications.

The HACSD may not delay processing the incoming portability by requiring:

The family to attend a briefing not scheduled for three or more weeks.

A background check or income reexamination that will take more than two weeks.

Although the HACSD may not delay processing and issuance of the voucher more than two weeks, it may take action against a family, including termination of the family's participation in the program, based on the results of a background check or income reexamination or for any other program violations.

When the HACSD does not absorb the incoming voucher, it will administer the initial PHA's voucher and the HACSD's policies will prevail.

For an admission to the program, a family must be income-eligible in the area it initially receives assistance.

Reasonable accommodation to a family member who is a person with disabilities may necessitate port-in HCV extensions by HACSD. In these limited situations, extensions to the voucher granted by the HACSD are only valid if the family leases up in the jurisdiction of the HACSD.

### **Income and Total Tenant Payment of Incoming Portables**

[982.353(d)]

As the receiving PHA, the HACSD may conduct a reexamination interview, but will only verify information when the documents are missing, are over 120 days old, or if the family circumstances have changed. The HACSD will request all necessary third-party verifications. In addition, for families who had not received assistance in their original jurisdiction, the HACSD must determine if the family is income-eligible at or below 50% of area median income.

The HACSD interview will not cause a delay in the issuance of a voucher.

If the family's income calculates to zero subsidy prior to lease-up, the HACSD will refuse to enter into a contract on behalf of the family. A notice of action and opportunity for an informal hearing/review will be issued.

### **Requests for Tenancy Approval**

When the family submits an RFTA, the RFTA will be processed using the HACSD's policies. If the family does not submit an RFTA or does not execute a lease, the HACSD will notify the initial PHA within 14 days after the voucher expiration date.

If the family successfully leases, the HACSD will notify the initial PHA within 10 working days of the execution of the HAP contract and no later than 90 days after the initial voucher expiration date, and the billing process will commence.

If the HACSD denies assistance to the family, it will notify the initial PHA within 10 days of the effective date of the termination, and if the family requests an informal hearing/review, within 10 working days of the hearing decision.

The HACSD will notify the family of its responsibility to contact the initial PHA, if the family wishes to move outside the HACSD jurisdiction under continued portability.

### **Regular Program Functions**

The HACSD will administer the family's assistance on behalf of the initial agency in accordance with its Plan and HUD regulations, including performing the following activities:

- Annual reexaminations of family income, assets, and composition;
- Annual or biennial inspection of the unit;
- Interim examinations, as necessary;
- Family transfers from one unit to another, within the HACSD jurisdiction.

The HACSD will notify the initial PHA within 10 working days of the effective date of the following changes:

- Change in billing amount;
- A decision to absorb the family;
- Termination of housing assistance payments.

### **Terminations**

The HACSD will notify the initial PHA in writing of termination of assistance within 10 working days of the termination effective date. If an informal hearing/review is required and requested by the family, the HACSD will conduct the hearing/review using the regular hearing/review procedures in this Plan. A copy of the hearing decision will be furnished to the initial PHA within 10 working days.

If a family owed money prior to porting, the initial PHA will be responsible for collecting amounts owed by the family for claims and for monitoring repayment. If the initial PHA notifies the HACSD that the family is in arrears, or the family has refused to sign a payment agreement, either the initial or the receiving PHA will terminate assistance

to the family, and either the initial or the receiving PHA will conduct an informal hearing, if requested.

### **Required Documents**

The initial PHA must forward to the HACSD the documents listed on the HUD portability billing form.

### **Billing Procedures**

As receiving PHA, the HACSD will bill the initial PHA monthly for housing assistance payments, administrative fees, and special claims.

Unless the HACSD negotiates a different amount of reimbursement with the initial PHA, the HACSD will bill 100% of the housing assistance payment, 100% of special claims, and 80% of the administrative fee (at the initial PHA's rate) for each "portability" voucher leased on the first day of the month.

If administering the portability voucher, the HACSD must issue its initial billing notice to the initial PHA no later than 90 days following the original expiration date of the voucher and within 10 working days of the date it executes the HAP contract.

The HACSD must complete the HUD-52665 and 50058 form and return to the initial PHA by the initial billing deadline.

The HACSD will notify the initial PHA of changes in subsidy amounts, and will expect the initial PHA to notify the HACSD of changes in its administrative fee.

The HACSD must send the initial PHA an updated HUD-50058 each year, regardless of whether there is a change in the billing amount.

The HACSD will promptly notify the initial PHA in writing of late payments and must send a copy of the notification to the local Office of Public Housing. If the payments are late the following month, the HACSD may petition HUD to transfer the units to the receiving PHA.

# PROGRAM REVIEW AND PROGRAM INTEGRITY

[24 CFR 792.101 to 792.204, 982.54]

## INTRODUCTION

**T**he HACSD is committed to ensuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families. The HACSD will take all steps necessary to prevent program fraud, abuse, and waste, so that program resources are utilized judiciously.

This chapter outlines the HACSD's policies for the prevention, detection and investigation of program abuse and fraud. In addition, this chapter discusses quality control procedures taken to ensure the program is operated in conformance with the regulations, as well as industry standards.

## PREVENTION OF PROGRAM ABUSE AND FRAUD

The HACSD management and staff will employ various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. The policy of the HACSD is to minimize family and owner non-compliance by providing clear and concise program education to eliminate violations that occur as a result of a misunderstanding of the program rules and requirements.

**Participant Orientation Session:** All prospective program participants will attend a mandatory orientation session provided by HACSD staff prior to and/or upon issuance of a voucher. At the conclusion of all program orientation sessions, the family representative will be required to sign a confirmation that all rules and pertinent regulations were explained to them.

**Owner Orientation Session:** Owners may attend informational workshops held periodically to orient owners on program rules and requirements.

**Participant Conferences (Tenant Integrity Conferences):** The HACSD will routinely provide information to participants, to clarify any confusion regarding program rules and requirements.

**Review and Explanation of Forms:** Staff will explain all required forms, and review the contents of all certification documents prior to the participant's signature to affirm that all information provided is true, complete, and correct.

**Use of Instructive Signs and Warnings:** Information may be posted in the HACSD common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

**Public Awareness Campaign:** Information and videos are shared with participating families and owners through social media, email distribution lists, and newsletters. Staff may also share information at community events and speaking engagements.

**Participant Certification:** All adult family members are required to complete and sign an eligibility declaration that discloses important eligibility information such as family members, income, assets, criminal history and other eligibility information.

## **OTHER PROGRAM INTEGRITY ACTIVITIES**

As part of recertification paperwork, all adults are required to sign an authorization for release of information at least once each year.

All adults are required to sign the "Statement of Responsibilities" form included in the recertification paperwork completed at least once each year. This form lists the program requirements each household should know.

A Family Handbook is given to all participant families. The Family Handbook is a guide for families participating in the Section 8 Housing Choice Voucher Program. The handbook explains the responsibilities and family obligations of participants of the program. The handbook also provides information regarding the informal hearing procedures, reporting responsibilities, inspection checklist, and other policies and procedures required for program participation. The Family Handbook is given to participants at their briefing, upon request, and is available online.

An Owner Handbook is available to owners new to, or interested in, the program. The handbook explains the program, responsibilities and obligations of the owner, rent reasonableness and includes an inspection checklist and other program information. The Owner Handbook is available online.

## **DETECTION OF PROGRAM ABUSE AND FRAUD**

The HACSD expects participating families to comply with HUD requirements, provisions of the Housing Choice Voucher, and other program rules. HACSD staff will make every effort to orient and educate all families to avoid unintentional violations. However, the HACSD has a responsibility to HUD, to the community, to the taxpayer, and to eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to the HACSD's attention, to vigorously investigate such claims.

The HACSD learns about potential program abuse and fraud from a variety of sources including:

### **REFERRALS, COMPLAINTS AND TIPS**

The HACSD encourages participating families, owners, and the public to report suspected fraud and program abuse. Reports may be made by:

Telephone 1-800-421-2252;

In person or by mail;  
3989 Ruffin Road,  
San Diego, CA 92123

Email ([pafraud@sdcounty.ca.gov](mailto:pafraud@sdcounty.ca.gov));

All contact information associated with an allegation or report of suspected fraud or program abuse is confidential.

Complaints from families: A family disagrees with an action or inaction of the HACSD, or owner.

The Housing Specialist will make every effort to resolve complaints from families. If the complaints are not resolved, they will be referred to the Housing Supervisor. The Housing Supervisor will make every effort to resolve the complaints. If the complaints are not resolved, they will be referred to the Analyst and if not resolved, to the Program Coordinator.

Complaints from owners: An owner disagrees with a family, or HACSD action or inaction.

The Housing Specialist will make every effort to resolve owner complaints. If the owner complaints are not resolved, they will be referred to the Housing

Supervisor. The Housing Supervisor will make every effort to resolve the complaints. If the complaints are not resolved, they will be referred to an Analyst and if not resolved, to the Program Coordinator.

Complaints from staff: A staff person reports an owner or family for either violating or not complying with program rules.

The complaint will be referred to the Housing Specialist or Housing Supervisor.

Complaints from the general public: Someone from the public complains about staff, participants, owners, or other matters.

Complaints or referrals from persons in the community in regard to the HACSD, a family, or an owner will be referred to the Housing Supervisor. If the complaints are not resolved, they will be referred to an Analyst and if not resolved, to the Program Coordinator.

## **QUALITY CONTROL FILE REVIEWS**

Prior to initial certification and at the completion of annual recertifications, a number of files will be randomly selected for review to ensure the eligibility determinations were made correctly and meet program and SEMAP requirements. Such reviews shall include, but are not limited to:

Assurance that verification of all income and deductions are present and calculated correctly;

Changes in social security numbers or dates of birth that were previously reported;

Authenticity of file documents;

Correct calculation of the tenant share of rent and HAP;

Correct calculation of utility allowances;

Signatures consistent with previously signed file documents;

Forms for signatures and correct dates;

Rent reasonableness documentation;

Records of successful HQS inspections completed prior to execution of HAP contracts.

### **OBSERVATION**

The HACSD staff will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Observations will be documented in the family's file.

Management and staff may review public record bulletins.

### **STATE WAGE DATA RECORDS**

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 on a case-by-case basis, in order to detect unreported wages or unemployment compensation benefits.

### **CREDIT BUREAU INQUIRIES**

Credit bureau inquiries may be made by HACSD staff (with a participant's current, signed release of information) in the following circumstances:

At the time of final eligibility determination;

Upon transfer from one unit to another;

When a participant's expenditures exceed the participant's reported income and no plausible explanation is given as to how the participant is receiving the income to cover the reported expenses;

Upon allegations of unreported income, or the family living above its apparent means;

Upon an inspection that indicates the family's unexplained acquisition of expensive items such as, furniture, electronics, vehicles, or boats.

### **ENTERPRISE INCOME VERIFICATION REPORTS**

The HACSD staff will review and follow up on Enterprise Income Verification (EIV) reports of multiple subsidies, new hires and debts owed on a quarterly basis or before admission to the program.

## **INVESTIGATION OF ALLEGATIONS OF PROGRAM ABUSE AND FRAUD**

Participating families, owners and the public are encouraged to report suspected abuse to the Program Review unit. All referrals, including referrals from community members and other agencies, will be reviewed, documented, and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they are credible and warrant follow-up. Program Review will not follow up on vague or non-specific allegations. It will only review allegations that contain one or more independently verifiable facts.

Complaints made to Program Review will be investigated by Program Review staff and Program Review has the responsibility to review the files. Complaints made to case management will be reviewed and investigated by case management staff.

### **PRELIMINARY FILE REVIEW**

An internal file review will be conducted to determine if a program participant or owner is involved in activities that violate program rules or regulations. Any file documentation of past violations, as well as corroborating complaints, will be evaluated.

The HACSD may make a referral to another agency to follow-up on the alleged illegal behavior (e.g., police or social services).

If at the conclusion of the preliminary file review, there are facts contained in the allegation which conflict with file data, and the facts are independently verifiable, Program Review staff will initiate an investigation to determine if the allegation is true or false.

### **INVESTIGATIVE TOOLS**

The investigative steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the HACSD will ensure written authorization is on file from the program participant before requesting and reviewing confidential information.

#### **CREDIT BUREAU INQUIRIES**

A credit bureau inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

### **DMV RECORDS**

Staff may request information from the DMV to verify current address and vehicle ownership.

### **CRIMINAL HISTORY**

The HACSD may routinely conduct criminal history verification of program participants on a regular or random basis.

### **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.

### **CURRENT AND FORMER EMPLOYERS**

Current and/or former employers may be contacted to verify wages that may not have been previously disclosed or were misreported.

### **WITNESSES**

Witnesses may be interviewed regarding facts pertaining to the HACSD's review.

### **FIELD WORK AND HOME VISITS**

Staff may go out into the field and/or conduct a home visit to gather information to substantiate or clear the allegation.

### **OTHER AGENCIES**

Investigators, caseworkers or representatives of other agencies may be contacted.

### **PUBLIC RECORDS**

If relevant, the HACSD may review public records. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records, postal records, school records, or other types of records necessary to determine eligibility.

### **INTERVIEWS WITH THE HEAD OF HOUSEHOLD OR OTHER FAMILY MEMBERS**

The HACSD may discuss the allegation (or details thereof) with the head of household or family member by telephone, or by scheduling an appointment for the family to come to the HACSD office. HACSD staff members will conduct interviews with a high standard of courtesy and professionalism. HACSD staff members will, under no circumstances, use inflammatory language, accusations, or any unprofessional conduct or language in the course of doing business. If possible, more than one staff person will attend the interviews.

### **DOCUMENT AND/OR EVIDENCE HANDLING**

Documents and other evidence obtained by the HACSD during the course of an investigation will be considered "work products" and will be kept in the participant's file. The participant's file shall be kept in a secure location. The cases under review will not be discussed among HACSD staff members, unless they are involved in the process, or have information that may assist in the investigation.

### **CONCLUSION OF THE HACSD'S INVESTIGATIVE REVIEW**

Based on a preponderance of the information and evidence gathered, staff will make a determination whether or not the report of program abuse or fraud was substantiated. At the conclusion of the investigative review, the reviewer will place the findings in the participant's file and will narrate if a violation has or has not occurred, or if the facts are inconclusive.

When it is determined that a program violation has occurred, the HACSD will review the facts to determine:

The type of violation (procedural, non-compliance, fraud);

Whether the violation was intentional or unintentional;

The amount of money (if any) owed by the family or owner;

The family's eligibility for continued assistance and any corrective actions needed.

## **PROCEDURAL NON-COMPLIANCE BY PARTICIPANT**

This category applies to a family "failure" to observe a procedure or requirement of the HACSD, but the family did not misrepresent a material fact and there are no retroactive assistance payments owed by the family.

Examples of procedural non-compliance violations are:

Failure to appear at a pre-scheduled appointment;

Failure to return verifications in the time period specified by the HACSD;

Failure to report changes in income or assets.

Available Remedies and Penalties:

Warning Notice to the Family: In such cases a notice may be sent to the family that contains the following:

A description of the non-compliance and the procedure, policy or obligations violated;

The date by which the violation must be corrected;

The action that will be taken by the HACSD, if the violations are not corrected by the deadline;

The consequences of repeated (similar) violations.

Participant Conference: A participant conference may be scheduled with the family representative and the HACSD staff person who is most knowledgeable about the circumstances of the case. This conference may be held if there is some indication of extenuating circumstances, or upon family request.

The purpose of a participant conference is to review the non-compliance violation with the participant and to review and explain the family's obligations under the program.

Stipulated Agreement: The HACSD may allow the family to continue to receive assistance if the participating family signs a stipulated agreement, a formalized written warning resulting from violations of the family obligations, and a repayment agreement, if assistance was overpaid.

Repayment Agreement:

If the procedural non-compliance resulted in overpaid assistance, a repayment notice will be issued. The HACSD will issue a notification of overpayment of assistance. This notice will contain the following:

A description of the violation and the date(s);

Any amounts owed to the HACSD;

Terms of repayment.

**INTENTIONAL MISREPRESENTATIONS BY PARTICIPANT**

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact, the HACSD will evaluate whether or not:

The participant had knowledge that his/her actions were wrong; and

The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong: The facts will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certifications, personal declaration, and other documents that reflect the participant's knowledge of program rules, are adequate to establish knowledge of wrongdoing.

The participant willfully violated the law: Any of the following circumstances will be considered adequate to demonstrate willful intent:

An admission by the participant of the misrepresentation;

The act was done repeatedly;

A false name or social security number was used;

There were admissions to others of the illegal action or omission;

The participant omitted material facts, which were known to him/her (e.g., employment of self or other household member);

The participant falsified, forged or altered documents;

The participant uttered and certified to statements at an interim or annual (re)determination which were later independently verified to be false.

Available Remedies and Penalties:

In all cases of misrepresentations, the HACSD may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Participant Conference: When the HACSD has established that material misrepresentation(s) have occurred, a participant conference may be scheduled with the family representative and the HACSD staff person who is most knowledgeable about the circumstances of the case. This conference may be held if there is some indication of extenuating circumstances, or upon family request.

This conference may take place prior to any proposed action by the HACSD. The purpose of such conference is to review the information and evidence obtained by the HACSD with the participant, and to provide the participant an opportunity to explain any findings that conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family may be taken into consideration by the HACSD.

A secondary purpose of the participant conference is to assist the HACSD in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the HACSD may consider:

The duration of the violation and number of false statements;

An admission by the participant of the misrepresentations;

Repetition of the misrepresentation;

The family's ability to understand the rules;

The family's willingness to cooperate, and to accept responsibility for its actions;

The amount of money involved;

The family's program history;

Whether or not criminal intent has been established;

Stipulated Agreement: The HACSD may allow the family to continue to receive assistance if the participating family signs a stipulated agreement, a formalized written warning resulting from violations of the family obligations, and a repayment agreement, if assistance was overpaid.

Administrative Remedy: The HACSD may terminate assistance and demand payment/restitution in full.

Criminal Prosecution: If the HACSD has established criminal intent, and the case meets the Department's criteria for prosecution, the HACSD may refer the case to HUD-OIG and/or the local or state prosecutors or other law enforcement, and terminate rental assistance.

### **PROGRAM ABUSE OR FRAUD BY OWNER**

Participating owners must follow program rules and regulations. Prohibited activities include:

Charging the family rent above or below the amount stated on the HAP contract;

Knowingly accepting HAPs after the family has vacated the unit;

Residing in the unit with an assisted family;

Renting to a family member without prior approval;

Or other program rules or regulations.

If the HACSD determines that a participating owner has violated program rules or regulations, the HACSD may seek one or more of the following remedies:

Require the owner to repay overpaid assistance:

Payments may be debited from other participating properties in order to repay the HACSD or the tenant, as applicable or through collection agencies and/or the local court system.

Terminate the HAP contract.

Bar the owner from future participation in any HACSD program.

Refer the case to HUD-OIG and/or the local or state district attorney for prosecution.

In instances where it is found the family rented from a relative without the required HACSD permission, or due to approval based on misrepresentation, both the owner and the participant will be held jointly responsible for repayment of the full amount of the housing assistance payments made to the owner on the participant's behalf.

RESERVED

# TERMINATIONS, DENIALS, HEARINGS AND REVIEWS

[24 CFR 982.552, 982.553, 982.311, 982.554]

## INTRODUCTION

**T**he Section 8 Housing Choice Voucher Program operates through a relationship between the public housing agency, the owner and the participant. These parties enter into agreements with each other in the form of the lease between the owner and the participant, the Housing Assistance Payment (HAP) contract between the owner and the public housing agency, and the Housing Choice Voucher between the public housing agency and the participant. Each party to these agreements is obligated to comply with certain requirements of the program and the agreements may be terminated under program guidelines. This chapter describes the process for termination or denial of assistance, as well as the process for termination of the HAP Contract and the policies and procedures for such terminations.

The HACSD may deny or terminate assistance for a family because of the family's action, or failure to act. The HACSD will provide families with a written description of the family obligations under the program, the grounds under which the HACSD can deny or terminate assistance, and the HACSD's informal hearing or informal review procedures. For more information on family eligibility, please refer to Chapter Three.

The informal hearing or informal review requirements defined in HUD regulations apply to participant or applicant families who disagree with an action, decision, or inaction of the HACSD. This chapter describes the policies, procedures and standards used when families disagree with a HACSD decision. It is the policy of the HACSD to ensure that all families have the benefit of all protections due to them under HUD rules and regulations governing the Section 8 program.

## **DENIAL OR TERMINATION OF PROGRAM PARTICIPATION**

### **FORM AND FORMAT FOR DENIAL/TERMINATION**

Denial of assistance for an applicant may include any or all of the following:

- Denial of placement on the waiting list;
- Denying a voucher or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a tenancy;
- Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a tenancy;
- Terminating housing assistance payments under an outstanding HAP contract;
- Refusing to process or provide assistance under transfer or portability procedures.

### **EXTENUATING CIRCUMSTANCES**

Extenuating circumstances may be considered by the Program Coordinator if the responsible family member has no prior history of program violations and/or complaints, the violations did not involve violent or drug-related criminal activities, and/or only if the family member provides compelling medical documentation indicating the family member was incapacitated during the time the program violations occurred to such a degree that the family member was clearly incapable of understanding program requirements. Furthermore, the means of violation detection and subsequent family truthfulness and cooperation will be taken into consideration.

The HACSD will not take action to deny or terminate assistance for lease violations, criminal activities, or other good cause if the violations occurred as a result of a family member being the victim of domestic violence, dating violence, stalking, or a survivor of sexual assault unless the HACSD can demonstrate that the act poses an actual or imminent threat to other tenants or those employed at or providing service to the property. When a participant family is facing housing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or a participating family member claims to be a victim of such actions and that the actions are related to domestic violence, dating

violence, stalking, or a survivor of sexual assault, the PHA may require the individual to submit documentation affirming that claim. If the HACSD can demonstrate there is an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's program participation is not terminated, the HACSD will bypass the standard process and proceed with the immediate termination of the family's assistance. The HACSD will take action to exclude the perpetrator from the assisted household if it is found that one assisted family member has committed an act of domestic violence against another assisted family member.

In the case of lease violations, the family must make full restitution to the landlord as demonstrated by a landlord's full release and proof of payment. In addition, if the violations resulted in overpaid housing assistance payments, the family may, depending on the size of the overpayment, be allowed to remain on the program if the family enters into a repayment agreement and the payments are kept current.

If a family is found ineligible due to non-compliance as a result of a disability, the HACSD may delay the denial or termination in order to determine if the problem could be corrected by reasonable accommodation in conformance with this Plan's reasonable accommodation policy.

### **LEASE VIOLATIONS**

The following criteria will be used to decide if serious or repeated violations of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violations of the lease;

If it is found the family violated the lease as determined by the following evidence:

Court judgment or settlement between the family and the owner in which the family agrees to vacate the unit and/or pay a settlement amount; or

Police reports, neighborhood complaints, pictures, a HACSD inspection, or other verified third-party information that confirms serious or repeated lease violations; or

Non-payment of rent is always considered a serious violation of the lease.

The participant cannot withhold rent under the program for uninhabitability since it is a family responsibility under the program (24 CFR 982.515) to pay the family share of the rent. Also, the HACSD must be notified along with the owner of conditions needing repair in the unit [24

CFR 982.551(b)]; the owner must be given an opportunity to remedy the problems; and the HACSD must be given the opportunity to conduct a special inspection to determine if the unit fails HQS [24 CFR 982.405(g)]. If a unit is reported to have a bedbug infestation, the HACSD will not inspect the unit but will notify the landlord/owner and tenant that the condition fails HQS and must be remedied in a timely manner. The landlord/owner will be responsible for contacting an extermination professional for an immediate inspection. If treatment is needed, it must begin promptly. The landlord/owner must advise the HACSD of the results of the inspection and the treatment plan within 7 days of the failed HQS notice. As the treatment plan may take several weeks to complete, the landlord/owner may be allowed up to 60 days to complete the process and provide verification that it has been completed. Failure to complete the treatment and provide verification may result in abatement of the HAP. Families in the affected unit must cooperate with the treatment process. If the participant fails to pay rent without permission of the HACSD, the participant's non-payment of rent will be considered a serious lease violation and violation of a family responsibility.

In addition, it will always be considered a serious lease violation if the participant causes the landlord to incur expenses for cleaning and/or damages which exceed the amount of the security deposit paid to the owner at the beginning of tenancy, or \$500 if no security deposit was paid. The damages must be verified by a preponderance of evidence supported by an independent expert's cost estimate or photographs taken by HACSD staff. HACSD photographs of an obviously dirty unit, or damages above wear and tear, or debris left in or around the unit may be considered a serious lease violation. If the participant does not make full restitution, the participant may not transfer to another unit and will be issued a notice of termination of program participation.

If the participant has already moved into a new unit when a full determination of damages by HACSD staff occurs or it is determined that the tenant has an unpaid balance for rent or utilities, the tenant will be issued a notice of termination of program participation.

With the exception of a unit being "red tagged" as being uninhabitable by a governmental entity, the family may not move during the term of the lease without the owner's and the HACSD's permission.

The participant cannot move during the term of the lease, even if the participant claims uninhabitability, as the HACSD must be notified along with the owner of the problems in the unit; the owner must be given an opportunity to remedy the problems; and the HACSD must be given the opportunity to conduct a special inspection to determine if the unit fails HQS (24 CFR 982.406). If the participant abandons the unit during the term of the lease without permission of the HACSD, the participant's action will be considered a violation of a family obligation under 24 CFR 982.551(b), (e), and (f), and a serious lease violation and a termination notice will be issued.

**NOTIFICATION OF EVICTION**

[24 CFR 982.551(g)]

If the family requests assistance to move, but has not notified the HACSD of an eviction within 14 days of receiving the notice of lease termination, the move will be denied.

**ZERO (\$0) ASSISTANCE TENANCIES**

[24 CFR 982.455]

When a family has sufficient income to pay the full rent, the Housing Assistance Payment (HAP) is zero. The family may remain in the unit with zero assistance for up to six months after the last HAP payment. If the family is still in the unit after six months, their program participation will end. If, within the six-month timeframe, an owner rent increase or a decrease in the family's income results in the family becoming eligible for assistance, the HACSD will resume assistance payments for the family upon documentation of the change if otherwise eligible.

If the family wishes to move from the unit during the six-month period and the family is otherwise eligible, the family will be issued a voucher. The family's eligibility will be re-determined at the time of the move; if the family is eligible for assistance, the family will be leased into a new unit. However, if the HACSD portion would result in zero HAP, the family may lease-up but will end their participation in the program. A family in zero HAP is ineligible for voucher extensions.

A family that requests portability during the six-month period may be issued a voucher to port. The receiving PHA will be advised that the family is in zero HAP. The receiving PHA cannot enter into a HAP contract with the owner if there is zero HAP. If the family leases up, their program participation will end.

**OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

[24 CFR 982.551, 982.552(c)]

If the family has misrepresented information so that an overpayment of assistance was disbursed, the HACSD may choose to allow the family to continue participation, if the family executes a repayment agreement for overpaid assistance and makes payments in accordance with the agreement. The determination to not terminate family participation depends on the seriousness of the misrepresentation and the family's history of complying with the program and the lease.

**MISREPRESENTATION IN COLLUSION WITH OWNER**

[24 CFR 982.551, 982.552(c)]

If the family intentionally, willingly, and knowingly commits fraud, or is involved in an illegal scheme with the owner, such as an unauthorized side payment agreement, the HACSD may terminate assistance. The HACSD may consider extenuating circumstances in making its determination.

**MISSED APPOINTMENTS AND DEADLINES**

[24 CFR 982.551, 982.552(c)]

It is a family obligation to supply information, documentation, and certification as needed for the HACSD to fulfill its responsibilities. The HACSD schedules appointments and sets deadlines in order to obtain the required information. The family obligations require that the families allow the HACSD to inspect the unit with a reasonable advance notice.

The HACSD may issue a notice to deny or terminate assistance when an applicant or participant fails to keep an appointment, supply information by the deadline, or fails to allow a scheduled HACSD inspection.

The family will be informed of the requirement to keep appointments.

Appointments or deadlines may be required in the following circumstances:

- Eligibility for admissions;
- Verification procedures;
- Voucher issuance and briefings;
- Housing Quality Standards inspections;
- Recertifications;
- Appeals;
- Conferences.

The following documented extenuating circumstances may be considered for missed appointments or deadlines:

Medical emergency;  
Incarceration;  
Family emergency.

### **Procedure when Appointments are missed or Information not provided**

The family may be given two opportunities before a notice of termination of assistance or denial of participation is issued. The family must call to reschedule a missed appointment and, if not, a termination of assistance or denial of participation may be issued. The HACSD may rescind the notice, if the family then calls to reschedule the appointment.

The HACSD may rescind a notice if the family offers to correct a breach in program requirements prior to the date of termination of assistance. The notice may not be rescinded if the family has a history of non-compliance. The notice will not be rescinded if assistance has terminated.

### **PROCEDURES FOR NON-CITIZENS**

[24 CFR 5.514, 5.516, 5.518]

### **Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families without at least one family member that is a U.S. citizen or a person with an eligible immigration status are not eligible for assistance and must have their assistance terminated. The HACSD must offer the family an opportunity for a hearing.

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

### **False or Incomplete Information**

When the HACSD 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 will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the HACSD will offer an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status. The HACSD will then verify eligible status and deny, terminate, or prorate as applicable.

The HACSD may deny or terminate the family's assistance, if it is apparent that the applicant or participant deliberately provided incomplete, false, or incorrect information.

### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the USCIS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the HACSD, either after the INS appeal or in lieu of the appeal with the INS.

After the HACSD has made a determination of ineligibility, the family will be notified of the determination, the reasons for the determination, and informed of the option for prorated assistance (if applicable).

The HACSD may deny or terminate the family's assistance, if it is apparent that the applicant or participant deliberately provided incomplete, false, or incorrect information.

### **REASONABLE ACCOMMODATION**

[24 CFR 982.552, 982.553]

If denial of admission, or termination of assistance, is based on behavior due to a disability, the HACSD will delay the denial or termination in order to determine if the problem could be corrected by reasonable accommodation. For example, a visually impaired person fails to return information because the request for information was in writing. The HACSD then makes a reasonable accommodation, upon request, to call the person to tell the person the information that is needed.

However, a reasonable accommodation will not be granted if to do so would create an undue financial or administrative burden or result in a fundamental alteration in the nature of the program, such as to waive the prohibition on certain criminal acts (conviction for drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing or a household member is subject to a lifetime registration requirement under a State sex offender registration program). If an accommodation is determined to create an undue financial or administrative burden or would result in a fundamental alteration of the nature of the program, the HACSD will engage in an interactive process with the person to see if there is some other reasonable accommodation that would correct the problem.

### **FORMAT FOR DENIAL/TERMINATION NOTICES**

Applicants and participants will be notified of denial or termination of assistance in writing on HACSD-approved notices and advised they will have 14 days from the date of the notice to request an informal review or hearing.

The notices will contain: the effective date of the action; the family's right to request an informal hearing or review; the deadline for the family's informal hearing/review request; a full explanation of the reason(s) for termination/denial, including a full description of crimes or actions of the family, and the sections of the Code of Federal Regulations that provide authority for the denial or termination of assistance. A request form will be provided for applicants or participants to request informal reviews or hearings.

If the HACSD proposes to terminate assistance for criminal activity based on a criminal record, the HACSD will allow the family to make an appointment to review a copy of the criminal record upon family request.

The HACSD will provide written notice of the contract termination to the owner to coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

### **REQUIRED EVIDENCE**

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

*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, arrest warrants, or an inspection of the unit for violations of family obligations.

If the HACSD determines, based on a preponderance of the evidence, that a household member, or guest, has engaged in prohibited criminal activity or violated family obligations, the HACSD will terminate assistance.

The HACSD will pursue fact-finding efforts, as needed, to obtain credible evidence. Except in the cases for which denial or termination of assistance is mandatory, the HACSD will consider the following facts and circumstances when making its decision to terminate or deny assistance:

- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family
- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that denial or termination of assistance may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault or stalking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record of arrest(s) will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the HACSD may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACSD may also consider:

- Any statements made by witnesses or the applicant/participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the applicant or participant engaged in disqualifying activity
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity;
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- The HACSD will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

An applicant, a member of an applicant or participant household or an addition to the participant's household, including a live-in aide, will be notified and provided an opportunity to dispute the accuracy and relevance of a criminal record before admission of assistance is denied or participation terminated on the basis of such a record. The HACSD will allow the family to make an appointment to review a copy of

the criminal record upon family request. The family may also submit any other written documentation to be considered in review of the circumstances surrounding the criminal record. Such documentation may include items such as: statements from the member, witnesses, or character witnesses; recommendations from law enforcement personnel such as probation/parole officers, health providers, or others familiar with the case; or evidence of rehabilitation or change in circumstances.

If an applicant or participant submits documentation, a designated committee will review the information and make a recommendation on if a denial notice or termination notice should be issued. In appropriate cases the committee may recommend that the family be offered a stipulated agreement in lieu of a denial or termination notice. The stipulated agreement would contain the terms and conditions of allowing the family to begin or continue to receive assistance. Failure to enter into, or comply with the agreement, shall result in the issuance of a denial or termination notice.

If the applicant does not dispute the accuracy or relevance of the criminal information or upon committee recommendation, a denial or termination notice will be mailed to the applicant or participant. An applicant will then be afforded the right to an Informal Review and a participant will be afforded the right to an Informal Hearing as outlined in this chapter.

## **TERMINATION OF CONTRACT OR LEASE**

[24 CFR 982.311, 982.314]

The term of the HAP contract between the HACSD and the owner is the same as the term of the lease. The HACSD or the owner may terminate the HAP contract, or the HAP contract terminates upon owner or tenant termination of the lease.

The HACSD will terminate payments on behalf of the family to the owner upon termination of the HAP contract. The owner must reimburse the HACSD for any subsidies paid after the contract termination.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

After contract termination, if the family meets the criteria for a move with continued assistance, the family may lease another unit.

## **TERMINATION OF TENANCY BY THE FAMILY: MOVES**

[24 CFR 982.354]

Family termination of the lease must be in accordance with the terms of the lease. The family may not be eligible to transfer its assistance to another unit, depending on the circumstances of the termination of the lease.

## **TERMINATION OF TENANCY BY THE OWNER**

[24 CFR 982.310, 24 CFR 5.2005(c), Form HUD-52641-A, Tenancy Addendum]

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section. During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

### Serious or Repeated Lease Violations:

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence Against Women Act of 2013. Serious or repeated violations of the lease include, but are not limited to, failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease.

However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

### Violation of Federal, State, or Local Law:

The owner is permitted to terminate the tenancy if a family member violates federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises. The owner may terminate tenancy during the term of the lease if any covered person—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises
- However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy.
- The owner may terminate tenancy during the term of the lease if any member of the household is:
  - Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or
  - Violating a condition of probation or parole imposed under federal or state law.
- The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents

Other Good Cause:

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause," unless the owner is terminating the tenancy because of something the family did or failed to do (see 24 CFR 982.310). During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit;

- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent.

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

The HACSD will not be involved in termination of the lease, nor will it advise the landlord or the tenant regarding the legal process. If the family is eligible to transfer to another unit and requests to move, the HACSD staff will immediately issue a transfer packet to the participant and act to expedite the transfer process.

### **Evidence of Criminal Activity**

The owner may terminate family tenancy and evict by judicial action for criminal activity by a covered person if the owner determines the person has engaged in criminal activity regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

### **Release of Sex-Offender Registration Information or Criminal History Information to the Owner**

The owner may request that the HACSD obtain and review criminal or sex-offender registration records for grounds to deny a tenant application, or evict a tenant. The HACSD will charge the owner a fee based on the costs incurred by the HACSD, including the costs charged by the law enforcement agency, the HACSD staff time and administrative costs. The owner may not charge the tenant for this fee.

The HACSD **must not** release any criminal information or sex-offender information to the owner, but a Housing Supervisor will review the information and, if no information relevant to application or eviction is found, will notify the owner. If information relevant to the application or eviction is found, the Housing Supervisor will present his/her findings in writing to the Chief, who will authorize the findings and sign the letter issued to the owner. The letter will not specify the criminal or sex-offender history, but will merely state that there may be cause for denial or eviction of the tenant. If the owner sends documentation that supports the need for specific information for an eviction, the Chief must approve the release of any information in accordance with the regulations [24 CFR 5.903, 24 CFR 5.905].

### **Termination of Tenancy Decision**

The owner can decide whether to take an action against a tenant, if the law and the regulations permit. The circumstances to be considered by the owner include:

- The seriousness of the offense;
- The effect on the community;
- The extent of participation by household members;
- The demand for assisted housing by families who will adhere to responsibilities;
- The extent the tenant has taken personal responsibility;
- The extent the tenant has taken all reasonable steps to mitigate the offending action(s);
- The effect on the integrity of the program.

### **Exclusion of Culpable Household Member**

The owner may require the tenant to remove a household member in order to continue to reside in the assisted unit.

### **Consideration of Rehabilitation**

When determining whether to terminate the tenancy for illegal drug use (including medical and recreational marijuana), or alcohol abuse, the owner may consider whether the member:

- Is no longer engaged in the offending activities;
- Has successfully completed a supervised drug or alcohol rehabilitation program;
- Has otherwise been rehabilitated.

The owner may require the tenant to submit evidence of rehabilitation.

Actions of termination must be consistent with fair housing and equal opportunity laws as stated in 24 CFR 5.105.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under state or local law to commence an eviction action.

The owner should specify lease violations and cite some, or all of the ways the tenant has violated the lease, as documentation for the HACSD's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, if the family is eligible for assistance, the HACSD must continue to make housing assistance payments to the owner until the tenant has moved, the owner has obtained a court judgment, or otherwise evicted the tenant. By endorsing the monthly check from the HACSD, the owner certifies that the tenant is still in the unit, the rent is reasonable, and the tenant is in compliance with the contract. Rental assistance cannot be paid if the unit has an HQS violation that is the owner's responsibility.

If the action is finalized in court, the owner will be asked to provide the HACSD with the documentation, including notice of the lockout date.

The HACSD may issue a new voucher to the family and process its transfer, if the family is found to have been in compliance with the lease, and all program requirements.

**TERMINATION OF THE CONTRACT BY THE HACSD**

[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The HAP contract terminates when the lease terminates, the HACSD terminates program assistance for the family, or when the owner has breached the HAP contract.

The HACSD may also terminate the contract if:

Funding is no longer available under the HUD Annual Contributions Contract

The contract will terminate automatically 180 days after the last housing assistance payment to the owner.

**Notice of Termination**

In most instances, the HACSD will terminate the contract the end of the month following the month the owner is issued a termination notice. However, the contract will terminate the end of the month the family vacates the unit and may terminate the end of the month that serious, life-threatening conditions are noted and not corrected.

When the HACSD terminates a contract, a transfer packet will be forwarded to an eligible family.

## **INFORMAL REVIEWS**

### **DENIALS OF WAITLIST PREFERENCES**

When the HACSD denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with the HACSD staff to discuss the reasons for the denial and to dispute the HACSD's decision.

The person who conducts the meeting will be:

The intake supervisor or designee;

An employee of the HACSD, who is at or above the level of Housing Specialist I, but not the employee who made the determination.

### **INFORMAL REVIEW PROCEDURES**

[24 CFR 982.54(d)(12), 982.554]

Informal reviews, with one exception, are provided for applicants who are denied assistance before the effective date of the HAP contract. Informal reviews are intended to provide a "minimum hearing requirement," and need not be as elaborate as informal hearing requirements. Informal hearings are provided to applicants denied for citizenship or eligible immigrant status.

Upon HACSD determination of applicant ineligibility, the family must be notified in writing. The notice must contain:

The reason(s) the family is ineligible;

The procedure for requesting a review, if the applicant does not agree with the decision;

The deadline to request a review.

When denying admission for criminal activity as shown by a criminal record, the HACSD will allow the family to review the criminal record at the HACSD office upon family request.

The HACSD must provide applicants the opportunity for an informal review when they are denied for the following reasons:

Denying listing on a 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 for applicants are not required for established policies and procedures, and HACSD determinations such as:

Discretionary administrative determinations by the HACSD;

General policy issues or class grievances;

A determination of the family unit size under the HACSD subsidy standards;

Refusal to extend or suspend a voucher;

Refusal to grant approval of the tenancy;

Determination that unit is not in compliance with HQS;

Determination that unit is not in accordance with HQS due to family size or composition.

### **Notification of Review**

The HACSD will ensure applicants receive all the rights afforded by laws and regulations. When the HACSD receives a request for an informal review, the informal review shall be scheduled within 30 days of receipt and conducted within 60 days of the date the request is received. The informal review may be conducted by telephone, or in person. The applicants will be advised of the time and date of the informal review, and the right to submit oral or written objections to the HACSD decision.

### **Processing the Informal Review**

A written request for an informal review **must** be received at the HACSD offices by the close of the business day, no later than 14 days from the date of the HACSD's notification of denial of admission. The informal review will be scheduled within 30 days of the date the request is received and conducted within 60 days of the date the request is received.

Those involved in the decision under review, or their subordinates, may not conduct the informal review.

The review may be conducted by:

A HACSD Housing Specialist I, or above;

A qualified individual designated by the HACSD.

The applicant will be given the option of presenting oral or written objections to the decision. The HACSD and the family may present evidence and witnesses. An attorney or other representative may accompany the family at the family's own expense.

The review may be conducted via mail and/or telephone, if acceptable to both parties.

A notice of the review findings will be provided in writing to the applicant within 20 days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation and a copy of the final decision will be retained in the family's file.

### **Requests for Postponement**

Requests for postponement will be granted only if there is evidence that indicates the postponement is necessary due to reasons beyond the control of the parties involved (for example: hospitalization, auto accident, etc.). Verification of the reason(s) must be provided to the HACSD in writing and must cover the review date before a new review will be scheduled. A reasonable accommodation request based on a family member's disability must be provided in writing prior to the scheduled informal review.

## **INFORMAL HEARINGS**

[24 CFR 982.555(a-f), 982.54(d)(13)]

The HACSD must notify participants, and applicants (for citizenship or eligible immigration issues), in writing, upon a decision regarding eligibility and/or the amount of assistance. The HACSD will give the family prompt notice of such determinations, which will include:

The proposed action or decision of the HACSD;

The date the proposed action or decision will take place;

The family right to an explanation of the HACSD decision;

The procedures to request a hearing, if the family disputes the action or decision;

The deadline to request the hearing;

Where the hearing request must be submitted.

When terminating assistance for criminal activity as evidenced by a criminal record, the HACSD will allow the participant to come into the office to view copies of the relevant criminal record(s) upon family request. In addition, the termination notice will provide specific information on the criminal history discovered.

The HACSD must provide participants the opportunity for an informal hearing for decisions related to any of the following:

- Determination of the family's annual or adjusted income;
- The computation of the housing assistance payment;
- The utility allowance schedule used;
- Family unit size determination under HACSD subsidy standards;
- Termination of assistance for any reason.

Informal hearings are not required for established policies and procedures and HACSD determinations such as:

- Discretionary administrative determinations by the HACSD;
- General policy issues or class grievances;
- Establishment of the schedule of utility allowances for families on the program;
- Determination not to approve an extension or suspension of a voucher term;
- Determination not to approve a unit or lease;
- Determination not to grant an increase in Voucher size;
- Determination not to grant a reasonable accommodation;
- Determination not to approve additions to the household, including a live-in aide;
- Determination of owner violation of HQS (HACSD must provide a hearing for termination of assistance for a family breach of HQS);
- Determination that the unit is not in accordance with HQS because of the family size;

Determination to exercise, or not exercise, any right or remedy against the owner under a HAP contract.

## **INFORMAL HEARING PROCEDURES**

### **Notification of the Hearing**

It is the HACSD's objective to resolve disputes at the lowest level possible to avoid the most severe remedies. However, if this is not possible, the HACSD will ensure that applicants and participants receive all of the protections and rights afforded by the law and the regulations.

When the HACSD receives a request for an informal hearing, a hearing will be scheduled within 30 days and conducted within 60 days. The notification of hearing will contain:

The date and time of the hearing.

The location of the hearing.

The family's right to bring evidence, witnesses, legal or other representation at the family's expense, providing the family notifies the HACSD in writing at least seven business days in advance. If the family fails to notify the HACSD in writing at least seven business days in advance, HACSD reserves the right to cancel and reschedule the informal hearing. The family's right to view any documents or evidence in the possession of the HACSD upon which the proposed action was based, providing the family requests the review at least seven business days in advance.

A notice to the family stating the HACSD requires copies of any documents or evidence the family will use at the hearing; it must be received by the HACSD at least seven business days in advance.

### **Processing the Informal Hearing**

A written request for an informal hearing must be received at the HACSD offices by the close of the business day, no later than 14 days from the date listed on the notification of termination of assistance. The informal hearing will be scheduled within 30 days of the date the request is received and conducted within 60 days of the date the request is received.

Informal hearings regarding rent calculations, utility allowances, and subsidy standard determinations, due to the specificity and/or complexity of these determinations, will be performed by an employee of the HACSD who is a Housing Specialist I, or above,

and who was not involved in making the original determination, or a subordinate of that person. Informal hearings regarding this subject will be more informal than outlined below and may be conducted over the telephone or in person.

Families may, during or before the hearing:

Present written or oral objections to the HACSD's determination.

No sooner than seven business days after the date of the notice of informal hearing and no later than seven business days prior to the hearing, request copies at the family's expense of any unprivileged documents in the file that are directly relevant, as determined by the HACSD, to the issues to be considered at the hearing which form the basis for the HACSD's action, and all documents submitted to the hearing officer.

Present any information or witnesses pertinent to the issue of the hearing.

Request that HACSD staff be available to answer questions pertinent to the case.

Be represented by legal counsel, advocate, or other designated representative at his or her own expense, providing the family notifies the HACSD in writing at least seven business days in advance. If the family fails to notify the HACSD in writing at least seven business days in advance, HACSD reserves the right to cancel and reschedule the informal hearing.

In addition to other rights contained in this chapter, the HACSD has a right to:

Present evidence and any information pertinent to the issue of the hearing.

Be notified if the family intends to be represented by legal counsel, advocate, or another party.

Examine and copy any documents to be used by the family at least seven business days prior to the hearing.

Be represented by legal counsel, advocate, or other designated representative at the expense of the HACSD.

Have staff persons and other witnesses familiar with the case present.

For informal hearings involving termination of assistance for any reason; HACSD may appoint hearing officers who are:

Professional mediators or arbitrators.

Managers from other departments in the County of San Diego.

Managers from other PHAs.

The HACSD management.

HACSD Analysts.

HACSD Supervisors (Housing Specialist IIIs).

Hearing officers will never be anyone who was involved in making the original determination or that person's subordinate.

The informal hearing shall only concern relevant issues. Evidence presented will be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Documents or witnesses not provided to the HACSD at least seven business days in advance shall not be admitted without HACSD approval.

Witnesses not provided by the HACSD in advance shall not be admitted without the opposing party's approval.

With the exception of informal hearings regarding disputes concerning rent calculations, utility allowances, and subsidy standard determinations, the family may request an audio recording of the informal hearing, if desired, within 90 days of the hearing.

The hearing officer may NOT request additional information, nor reconvene the hearing for a later date. The decision must be based solely on allowable pertinent evidence presented at time of the informal hearing.

The hearing officer will determine, based on allowable pertinent evidence and testimony, if the action, inaction, or decision of the HACSD is in accordance with HUD regulations and this Plan. Factual determinations will be based on a preponderance of relevant allowable evidence.

A notice of the hearing findings provided in writing to the HACSD and the family within 20 days shall include:

A clear summary of the decision and reasons for the decision.

The effective date of the decision.

A statement that the tenant may seek judicial review by filing a petition with the San Diego Superior Court, pursuant to section 1094.6 of the California

Code of Civil Procedure. The petition must be filed within 90 days of the date of this decision.

The HACSD is not bound by hearing decisions that:

Concern a matter for which the PHA is not required to provide an opportunity for an informal hearing or that otherwise exceeds the authority of the person conducting the hearing under the PHA hearing procedures.

Are contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.

Are overturned by the HACSD Deputy Director.

The HACSD shall, within 30 days of the decision, send a letter to the participant, if it determines it is not bound by the hearing officer's determination. The letter shall include the HACSD decision.

All requests for an informal hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **Requests for Postponement**

Requests for postponement will be granted only if there is evidence that indicates the postponement is necessary due to reasons beyond the control of the parties involved (for example: hospitalization, auto accident, etc.). Verification of the reason(s) must be provided to the HACSD in writing and must cover the hearing date before a new hearing will be scheduled. A reasonable accommodation request based on a family member's disability must be provided in writing prior to the scheduled informal hearing.

After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," defined as: an unavoidable conflict that seriously affects the health, safety, or welfare of the family.

## **HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"**

[24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision under the United States Citizenship and Immigration Services (USCIS) appeal process.

Assistance to a family may not be terminated or denied while the HACSD hearing is pending, but assistance to an applicant may be delayed pending the HACSD hearing.

The notice of denial of assistance for non-citizens must advise the family:

That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.

The family may be eligible for proration of assistance.

For participants, the criteria and procedures for obtaining relief is under the provisions for preservation of families [24 CFR 5.514 and 5.518].

The family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.

That the family has a right to request an informal hearing with the PHA, either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

### **USCIS DETERMINATION OF INELIGIBILITY**

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual search do not verify the claim, the HACSD must notify the applicant or participant, within 10 days, of their right to appeal to the USCIS within 30 days or to request an informal hearing with the HACSD, either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, it must give the HACSD a copy of the appeal and proof of mailing, or the HACSD may proceed to deny or terminate. The time period to request an appeal may be extended by the HACSD for good cause.

The request for a HACSD hearing must be made within 14 days of the date of the notice offering the hearing or, if an appeal was made to the USCIS, within 14 days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the HACSD will:

Deny the applicant family.

Defer termination of a participating family that qualifies for deferral.

Terminate the participant, if the family does not qualify for deferral.

If there are eligible members in the family, the HACSD will offer to prorate assistance or give the family the option to remove the ineligible members.

Other matters related to eligible citizen/immigrant status are:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide documentation or certifications, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing, since they had an opportunity for a hearing prior to the deferral of termination.

Participants whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and total tenant payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

## **MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES**

[24 CFR 982.204, 982.552(c)]

When applicants are denied placement on the waiting list or program admission, or the HACSD is terminating assistance, the presence of a disability is considered a mitigating circumstance during the informal review or informal hearing process, if the applicant did not respond to a request by the PHA for information due to a disability.

However, the presence of a disability is never considered a mitigating factor for certain criminal activities (conviction for drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing or a household member subject to a lifetime registration requirement under a State sex offender registration program.)

## **TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING**

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking.

### **VAWA Protections against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred 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 imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

### **Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define actual and imminent threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and 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
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an immediate time frame

- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

### **Documentation of Abuse [24 CFR 5.2007]**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, the HACSD will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

### **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

RESERVED

# OWNER OR FAMILY DEBTS TO THE HACSD

## INTRODUCTION

**T**his chapter describes the HACSD's policies for the recovery of monies overpaid to families and owners. In addition, this chapter outlines the collection methods and guidelines for the handling and collection of different types of debts. The HACSD's policy is to communicate program guidelines to owners and families so as to minimize HACSD overpayments. The HACSD clearly documents, in the tenant file, the amount and nature of owner or family debts, as well as the method of calculation. Owners and families may receive copies of all relevant documentation regarding their debts, upon request; The HACSD will make every effort to collect delinquent family or owner debts. The HACSD will use a variety of collection methods to recover debts including, but not limited to:

- Request for lump sum payments
- Small claim or civil court actions
- Payment agreements
- Termination of family program participation
- Reductions in HAP to owner
- Abatements
- Collection agencies
- Referrals to the County Department of Revenue and Recovery

## **PAYMENT AGREEMENTS FOR PARTICIPATING FAMILIES**

[24 CFR 982.552 (c)(vii), PIH Notice 2017-12]

A payment agreement or repayment agreement, as used in this Plan, is a document entered between the HACSD and a person who owes a debt to the HACSD. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the HACSD upon default of the agreement. All adults in the household must sign the repayment agreement.

A family who fails to report an income increase within the 14-day reporting period is subject to a retroactive interim effective the first of the month following the income increase, and collection of overpaid housing assistance. A family may be allowed to remain on the program and enter into a repayment agreement if there are no other issues, previous stipulated agreements for similar family obligation violations on file as a second offense, the unreported gross income was less than \$15,000, and providing the family did not deliberately provide false, misleading, incomplete, or incorrect information to the HACSD. Additionally, if this is the first offense of the family's unreported or untimely income, then a stipulated agreement MUST be issued to formalize a written warning for violations of the family obligations.

If the HACSD offers a repayment agreement, it will determine the terms. The family may be offered a repayment agreement of up to 36 months, providing the family repays each month a minimum monthly payment that is the greater of 10% of the family's gross monthly income or \$50. The monthly payment amount for an elderly or disabled family with excessive medical deductions is the greater of 10% of the family's adjusted monthly income or \$40. A repayment schedule of longer than 36 months may be authorized by as a reasonable accommodation to a person with disabilities. During the repayment period, if a written request is received to re-evaluate the minimum monthly payment amount due to the household now reporting reduced income changes, this request MUST be evaluated and approved by a Supervisor first.

## **DEBTS OWED TO THE PHA**

[24 CFR 792.103, 982.552(c),(v-viii)]

### **DELINQUENT PAYMENTS**

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day. A charge of \$25.00 will be imposed on the maker of a check returned by the bank for any reason. Whenever a charge of \$25.00 is imposed, such charge shall be added to and become part of the amount of the obligation for which the check was issued.

If the family's repayment agreement is in arrears, and the family has not contacted or made arrangements with the HACSD, the HACSD may:

- Issue a 30-day notice of intended action to terminate assistance and give an opportunity to become current on their payments.
- A family may not move if it is not current on its repayment agreement.
- A family may not port to another PHA until its debt has been repaid.
- A transferring family, delinquent on its payment agreement, is required to pay the balance in full prior to the issuance of a voucher.
- A family may not enter into more than one repayment agreement. The family may be allowed 30 days to pay the second debt in full.

If the family becomes delinquent more than three months, this will be considered a breach of the repayment agreement and the HACSD may pursue one or more of the following actions:

- Terminate the housing assistance for breach of repayment agreement;
- Require the family to pay the balance in full;
- Refer family to collection agencies or to the County Office of Revenue and Recovery (ORR);
- Pursue civil collection of the balance due.

## **PAYMENT AGREEMENTS FOR FAMILIES NO LONGER ON THE PROGRAM**

A family whose program participation has been terminated will be offered a repayment agreement. The repayment agreement will ask the family to repay its debt within 120 days, but a longer period may be approved, upon request, when family circumstances make it difficult to honor a repayment agreement of a shorter duration.

A calculation of the estimated participant debt will be issued after assistance is considered entirely terminated. An entirely terminated case means that the participant has not requested an Informal Hearing within the respective 14 days of the issued termination notice date or if an informal hearing was conducted and the decision to terminate assistance was upheld.

## **DEBTS DUE TO MISREPRESENTATIONS / NON-REPORTING OF INFORMATION**

[24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

### **PROGRAM FRAUD**

If a family owes money as a result of program fraud, the case may be referred for prosecution. The family's program participation will be terminated. The HACSD will set up a collection for the family for the full amount of housing assistance payments issued from the time the family first committed fraud to the time the family's assistance was terminated.

### **UNAUTHORIZED PERSONS**

A family found to have unauthorized persons residing in the subsidized unit will be required to repay all housing assistance payments issued during the time the unauthorized person(s) was/were residing in the subsidized unit.

### **VIOLATION OF FAMILY OBLIGATIONS**

A family found to have violated its family obligations may be required to repay all housing assistance payments issued during the time the family was violating its family obligations.

### **RENTING FROM A RELATIVE**

In instances where it is found the family rented from a relative without the required HACSD permission, or due to approval based on misrepresentation, both the owner and the participant will be held jointly responsible for repayment of the full amount of the housing assistance payments made to the owner on the participant's behalf.

## **DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP**

If the family owes the HACSD money for rent arrears incurred during the minimum rent period, the HACSD will calculate the total amount owed and arrive at a reasonable payback amount that the family will be required to pay to the HACSD monthly. The family will be required to pay the increased amount until the debt is paid in full.

If the family goes into default on the repayment agreement for back rent incurred during a minimum rent period, the HACSD will reevaluate the family's financial situation to determine if the family has the ability to pay the increased rent amount. If not, the existing repayment agreement will be restructured.

## **OWNER DEBTS TO THE HACSD**

[24 CFR 982.453(b)]

If the HACSD determines that the owner has been issued housing assistance payments that the owner is not entitled to, the HACSD may reclaim the HAP overpayment amounts from future housing assistance payments owed to the owner for any units under contract.

When the landlord has been overpaid as a result of fraud, misrepresentation or violation of the HAP contract, the HACSD may terminate the HAP contract, and arrange for restitution to the HACSD and/or family, as appropriate.

In instances where it is found the family rented from a relative without the required HACSD permission, or due to approval based on misrepresentation, both the owner and the participant will be held jointly responsible for repayment of the full amount of the housing assistance payments made to the owner on the participant's behalf.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the HACSD will seek one or more of the following remedies:

- Require the owner to pay the amount in full within 30 days;
- Pursue collections through collection agencies and/or the local court system;
- Offer to enter into a repayment agreement on terms prescribed by HACSD;
- Restrict the owner from future participation.

A charge of \$25.00 will be imposed on the maker of a check returned by the bank for any reason. Whenever a charge of \$25.00 is imposed, such charge shall be added to and become part of the amount of the obligation for which the check was issued.

## **WRITING OFF DEBTS**

The HACSD Deputy Director may write off uncollectible debts. In determining whether a debt is uncollectible, the lack of success in collecting, along with the following factors will be considered:

- The debtor's whereabouts is unknown;
- The debt is more than one year old without collection;
- The debtor is judgment proof;
- The debtor is deceased;
- The amount is less than \$250.

The writing off of a debt does not remove the debtor's responsibility to repay, or the HACSD's ability to collect the monies owed. The HACSD will always deny program admission to an applicant who has failed to repay monies owed, whether the debt was written off or not.

# SPECIAL HOUSING TYPES, SPECIAL PROGRAMS, AND SPECIAL CLAIMS

## INTRODUCTION

**T**he Section 8 regulations allow assistance to be paid on behalf of special housing types. It is the intent of the HACSD to provide as great an opportunity as possible for affordable housing and wherever possible will allow assistance to be paid on behalf of permissible special housing types. This chapter describes the special housing types recognized by the HACSD and how these special housing types are handled. In addition, this chapter explains how the HACSD handles special programs and allowable special claims.

The HACSD will not set aside any program funding for any special housing type. A family may choose to rent housing that qualifies as a special housing type, or to rent other eligible housing in accordance with requirements of the specific program.

## FAMILY SELF-SUFFICIENCY PROGRAM

[24 CFR 984]

The Family Self-Sufficiency Program (FSS) is a voluntary program for HACSD Housing Choice Voucher Program participants who are committed to becoming economically self-sufficient.

## ACTION PLAN

### Introduction

This Action Plan was developed as required under Section VIII of the Federal Register, Vol. 56, No. 189, dated September 30, 1991. The Action Plan describes the activities the Housing Authority of the County of San Diego (HACSD) will carry out in the implementation and operation of the Family Self-Sufficiency Program (FSS).

Modifications to this Action Plan are made in compliance with provisions of Federal Register, Vol. 58, No. 101, Thursday, May 27, 1993, Rules and Regulations.

This Action Plan was updated September 2013.

### **Family Demographics**

The HACSD will select FSS participants from current Housing Choice Voucher participants.

In July 2018, there were 78 active FSS participants. They fall into the following categories:

HCV Participants		FSS Participants
61%	Elderly/disabled households	16%
88%	Small families (1-4 members)	83%
12%	Large families (5+ members)	17%
65%	Non-Hispanic	62%
35%	Hispanic	38%
80%	White	63%
16%	Black	33%
<1%	American Indian	3%
3%	Asian	1%
<1%	Pacific Islander	0%

It is anticipated that the ethnic and racial representation in the FSS Program will reflect that of the Housing Choice Voucher participant population in the jurisdiction of the HACSD.

The need for supportive services for the low-income families living in San Diego County is no different from the daily challenges of low-income families living elsewhere. Some of these families lack the education or job skills to find a well-paying job; these families lack knowledge of the job market, financial resources to pay for child care while seeking a job and transportation to seek and maintain a job. However, in San Diego County these problems are compounded by extremely high housing costs. As a result, San Diego County's low-income households will require, among other services, higher education opportunities and transportation services in order to compete in the current job and rental market.

### **Estimate of Participating Families**

As described in 24 CFR 984.105, HUD has established a calculation for a minimum program size for an agency's FSS program. This calculation is based on the number of

FSS Incentive slots funded in 1991/1992 and additional funding received from 1993 through October 20, 1998.

The HACSD was awarded 75 incentive slots to begin the FSS program in 1992. Additional funding of 86 slots in 1993 and 185 slots in 1994 make the original size of the FSS program 346 families. Beginning October 21, 1998, Housing Authorities could reduce the minimum program size by one for each successful graduate of the agency's FSS program.

A successful graduate is one who fulfills their contract of participation obligations. From October 21, 1998, through July 31, 2018, there have been 287 successful graduates from the FSS program. As of August 1, 2018, the minimum program size for the FSS program is 59 families. There were 76 families receiving services as of that date.

The HACSD will continue to maintain an FSS Program of at least the number of participants required to meet 80% of the minimum program size and will exceed it, if staffing and funding are available to do so.

### **Incentives to Encourage Participation**

An integrated services approach is essential to enhancing the self-esteem of low-income families who have the desire to work but lack the belief that they will be successful. Additionally, this approach will make them aware of new career possibilities, and then provide them with the education and training necessary to achieve their heightened aspirations.

To encourage participation in the FSS program, the HACSD is providing the following incentives:

#### ***FSS Escrow Account***

The HACSD will establish an escrow account for each FSS participant. The amount deposited into an escrow account represents the increase in rent resulting from an increase in earned income from the initial FSS contract start date. This amount is deposited for the benefit of the participant into the escrow account by HACSD. The escrow account becomes available to the family after they have fulfilled their obligations under the contract, or if the family meets interim goals and needs the escrow funds to complete their contract.

#### ***One-Stop Service Bank***

HACSD participates in quarterly Program Coordinating Committees (PCC) intended to increase awareness of public and private resources. Through the PCC and local efforts, the HACSD will provide information and referrals to the

FSS participant for an array of support services. These services will assist participants in removing barriers to self-sufficiency, and may include:

- Transportation
- Child Care
- Nutritional Education
- Career Counseling
- Parenting Skills
- Financial Management
- Treatment and Counseling for Substance and Alcohol Abuse
- GED, High School Diploma, and/or College Education
- Vocational Training
- Job Training, Preparation and Placement
- Homeownership Counseling
- Moral Support

### ***Resources***

The HACSD has developed and distributes resource information through newsletters and/or emails for FSS participants. These newsletters/emails highlight resources, available services, and accomplishments. Additionally, the FSS team has hosted in-house workshops for participants on topics such as personal finance, credit repair and preparing for college. Resource newsletters may be distributed by mail, email and/or be posted on HACSD website. Also, e-mail blasts are regularly sent to program participants to let them know about available resources such as: job announcements, trainings, and scholarships for specialized programs.

### ***Scholarships***

The HACSD may offer scholarships to FSS participants and other household members each semester based on funding availability, once in the spring and once in the fall, during the academic year, depending on funding. As of June 30, 2018, the FSS Scholarship Program has awarded 33 scholarships to FSS participants and their families. These awards total \$9,050.00 in funds that can be used towards school-related expenses including: tuition, books, transportation, room and board, and more. Scholarships are available in the following amounts: \$500 for undergraduate and graduate level studies; \$200 for associates and technical level studies; \$150 for GED and high school certifications.

Scholarship recipients are chosen based on certain criteria including: successful completion of the application, completion of an essay, submission of a class schedule and good standing with the Section 8 program. Additional requirements vary by year.

### **Outreach Efforts**

Currently the HACSD serves nearly 11,000 low-income families under the Housing Choice Voucher program. Outreach for the FSS program may be done by sending applications with annual renewal packets, and/or by providing program information to supportive service agencies. Outreach efforts will target both minority and non-minority groups. Referrals may also be accepted from Housing Specialists and other program staff. When staffing and/or funding does not allow families to be added to the FSS Program, a waiting list will be maintained. When staffing/funding resumes, families will still be served based on the date their application was received.

As provided under the regulations, 50% of the FSS slots may be made available to eligible families who have one or more family members who are: currently enrolled in public assistance benefits such as CalWORKs (formally known as TANF); are in any of the job training programs provided by PIC; are in any other FSS-related service program; or are on the waiting list for such a program. The other 50% of the FSS slots will be allocated to other families on a first-come, first-served basis.

### **FSS Activities and Supportive Services**

As identified in the Incentives Section, services already committed that may be provided to FSS participants include:

- Opportunities of Higher Education
- Transportation
- Individual Counseling by Trained Social Workers
- Skills Assessment Services
- Job Development Counseling
- Housing Assistance
- Job Training and Referral Services
- Child Care
- Vocational Training
- English as a Second Language Classes

Through existing County of San Diego services, the participants may be referred to and have access to other services such as:

- Career Development Services
- Health and Preventive Health Care
- Nutrition Classes
- Consumer Rights
- Budgeting Skills
- Parenting Skills
- Legal Services
- Housekeeping and Appliance Maintenance

The HACSD will continue to provide rental assistance to families who meet eligibility criteria and otherwise comply with HUD program requirements and HACSD policy. Participants will be provided information on how to select appropriate housing that meets Housing Quality Standards, and referrals to participating landlords will be furnished whenever possible. Participants will have access to a Housing Specialist assigned to manage their rental assistance contract.

### **Method for Identification of Family Support Needs**

The FSS Program will identify the needs of the interested families by requiring each family to complete a Family Self-Sufficiency Application. Active FSS participants are asked to complete a quarterly survey. The answers provided in in the application and quarterly survey will be evaluated by HACSD staff, and the family will be referred to appropriate resources. Resources may include service providers who assess the specific services the participant would need to meet their particular plan and/or goal in order to lead them to economic self-sufficiency.

### **Assurance of Non-Interference with the Rights of Non-Participating Families**

As described in the Outreach Efforts Section, participants of the Housing Choice Voucher program will be invited to participate in the FSS program. The invitation will make it very clear that non-participation in the FSS program in no way will affect the family's right to continue rental assistance or their participation in the Housing Choice Voucher program.

### **Timetable for Implementation of FSS Program**

The HACSD committed to begin the operation of the FSS Program within 12 months of HUD's notification of approval of the first increment of funding in support of the FSS Program. Eligible families selected to participate in the FSS program began to receive supportive services within 12 months of the implementation of the program.

### **Certification of Coordination**

The HACSD certifies that the development of services and activities under the FSS program has been and will continue to be coordinated with the JOBS Program; the programs provided under the JTPA, and any other relevant employment, child care, transportation, training, and educational programs to avoid duplication of services and activities.

### **Optional Additional Information**

The HACSD successfully developed, administered and operated the Project Self-Sufficiency Program and the Operation Bootstrap Program. Through these efforts the HACSD assisted more than 100 participants, reducing public dependency by providing them the opportunity of education, training, and other supportive services.

Throughout the more than 36 years of experience with housing programs, the HACSD has implemented the Section 8 Existing Housing Assistance Program, Housing Choice Voucher and Moderate Rehabilitation Program, the Section 17 Rehabilitation Program, the Conventional Public Housing Program and developed local rental assistance programs for participating cities. In addition, the HACSD has participated with the Department of Health in implementing the National Institute for Mental Health Program, which provides comprehensive services to mentally ill homeless.

The HACSD will operate individually. This FSS Action Plan, unless otherwise modified, will apply to the Section 8 Housing Choice Voucher FSS Program only.

### **Former Participants**

Beginning April 1, 2008, the HACSD will deny participation in the FSS program to a family that previously participated in an FSS program with the HACSD or any other housing authority.

If a family has participated in and successfully completed any FSS program, the family may not participate in the HACSD's FSS program.

At its discretion, the HACSD may permit a family who has previously participated in any FSS program, but did not successfully complete their contract, to reapply for the FSS Program no sooner than one year after the termination date of their contract.

### **Individual Training and Service Plan Goals**

The Individual Training and Services Plan (ITSP) will be developed with the individual FSS participant. HACSD FSS program staff will work with participants to develop employment-related goals that span the term of their contract. Goals may also include homeownership preparation.

Two types of goals will be developed: Long-term or final goals and short-term or interim goals. Goals, both short-term and long-term, will generally follow the "SMART" format:

- **S**pecific, stretch
- **M**easurable, meaningful
- **A**ttainable, agreed upon, action-oriented
- **R**ealistic, reasonable
- **T**ime based, tangible

### **Live Well Service Plan**

To align with *Live Well San Diego*, the County of San Diego's vision for a region that is Building Better Health, Living Safely and Thriving, FSS participants are encouraged to develop goals in each of the Live Well components (Health, Safety, Thriving). These goals are in addition to and support the participant's FSS ITSP goals.

### **Contract Changes**

A newly executed FSS contract is not to have a retroactive start date. The contract start date can be as soon as the beginning of the next following month. Participants will be allowed to change their goals no more frequently than once per year, and no changes will be allowed in the last six months of their contract term. Only two changes will be allowed in the five-year term of the contract, unless extreme hardship can demonstrate the need for additional changes of goals.

### **Contract Extensions**

The initial term of the FSS Contract of Participation is five years. If a family cannot meet their goals within the five years, they may request an extension. The request

must be in writing and be made during the last 12 months of their contract. The request must be received at least 30 days before the contract end date. An extension may be granted to a family if they are unable to meet the terms of their contract due to circumstances beyond their control and an extension of time will allow them to complete their contract goals successfully. An extension may be granted to allow the family to meet the goal of being off of welfare for at least 12 consecutive months. Under no circumstance will the total duration of extensions exceed a total of two years, or a maximum of seven years from the initial contract start date.

### **Requirement to Seek and Maintain Suitable Employment**

The FSS head of household is required to seek and maintain suitable employment throughout the term of their contract. The HACSD FSS program may require the FSS head of household to provide written verification of these activities. FSS participants whose goals include full-time employment must be working at least 32 hours per week by the completion of the contract date. The 32 hours per week may come from one single full-time job or two or more part-time jobs.

Participants that are self-employed must demonstrate hours and earnings equal to 32 hours per week at the current California minimum wage rate.

Employment-related goals for disabled participants will be based on their ability to work.

### **Program Completion**

The FSS Contract of Participation will be considered complete when the family has:

1. Met the goals established in their Contract of Participation; and
2. Made advancement in their career during the time on the FSS program; and
3. Not received any kind of welfare benefit for the last 12 months of their contract.

OR

1. 30% of the family's monthly adjusted income equals or exceeds the SAFMR for the size unit for which the family qualifies for; and
2. The family has not received any kind of welfare benefit for the last 12 months of their contract.

## **Program Termination**

The FSS Contract of Participation will be terminated if the family's participation in the Section 8 Housing Choice Voucher program is terminated. The FSS Contract of Participation may also be terminated for non-compliance or non-participation in the FSS program. A family may voluntarily request that their FSS contract be terminated. The family's rental assistance will not be terminated for non-compliance or non-participation in the FSS program. [FR Notice 12/29/14].

If a family's FSS contract is terminated (for any reason), any and all money in the family's FSS escrow account will be returned to the HACSD to be used for rental assistance for other families. The family will not be entitled to this money, nor will it be applied to any money owed to the HACSD.

## **Hearing requests**

A hearing will be offered to the participant at the time a negative action is taken including:

- The denial of participation;
- Termination of the FSS contract;
- Forfeiture of FSS Escrow account monies.

The hearing request process will be the same as for the Housing Choice Voucher Program and is described in Chapter 13 of the Section 8 Housing Choice Voucher Administrative Plan.

## **Escrow Payouts**

Upon successful completion of the terms of the contract, the HACSD will begin the process to pay out the balance of FSS Escrow account. Interest earned on the FSS escrow account will be added to the escrow balance and paid to the qualifying FSS participant upon completion of the FSS contract. The FSS escrow account only earns interest for the quarter once it has been posted by the Auditor and Controller after each quarter ends. FSS participants graduating mid-quarter will include the interest only through the most recently posted quarter. If the family owes the HACSD money, the debt to the HACSD will be paid first from the escrow account and any balance remaining will be paid to the family.

A family may request an interim payout from their escrow account before they have completed their contract. Interim payouts are intended to help the participant

achieve a goal that they would not otherwise be able to achieve. An interim payout will be considered if each of the following criteria are met:

1. The family makes the request in writing explaining the need for the money, the amount requested and who the check should be made payable to; and
2. The family has made demonstrable progress towards their goal; and
3. The amount requested is not more than 30% of the balance of their escrow account at the time of the request; and
4. The family can demonstrate how the money will help them meet their final goals; and
5. The family can demonstrate how all known or available resources have been exhausted.

A maximum of two interim payouts from the FSS escrow account will be allowed per contract term for the participating FSS family.

### **FSS Portability**

If a family is exercising the portability option and is moving into the HACSD's jurisdiction and is an active participant of the initial HA's FSS program, the family will be admitted to the HACSD's FSS program and the voucher will be absorbed. The family must sign a new FSS contract with the HACSD; however, the original contract information and dates will be continued. The goals and activities will be re-evaluated. If the HACSD is administering vouchers on behalf of the initial Housing Authority for families porting into the HACSD, the voucher will only be absorbed once the new contract is signed.

When the family ports in, the family will be contacted to see if they would like to be admitted into the HACSD's FSS program. If the family wishes to continue their FSS program, with HACSD, the initial Housing Authority will be contacted for a copy of the family's original FSS contract and escrow account balance. When both have been received, a new FSS contract will be executed with the family to continue the term of their original contract.

The HACSD will not allow a family using the portability option to be admitted to a receiving agency's FSS program until the receiving agency absorbs the family's voucher.

### **Non-FSS Family Port-In**

If a family is porting in and wishes to join FSS, and HACSD is absorbing their voucher, the family will go on the FSS waiting list until such time as their name is pulled from the list. If HACSD is not absorbing, and is administering the voucher, the family will remain on the FSS waiting list until HACSD is able to absorb the voucher. In both cases the family remains on the waiting list until such time as the voucher has been absorbed by HACSD and the family has also been pulled from the FSS waiting list.

#### FSS Participant Port Out

If a FSS participant wishes to port out of the HACSD jurisdiction, they may take their FSS contract with them, if certain circumstances are met:

1. The family must have been enrolled in and participating the HACSD's FSS program for at least 12 months before porting out.

AND

2. The receiving Housing Authority will absorb the family's voucher and FSS contract.

If the family decides to move before the end of the 12 months or if the receiving agency will not absorb their voucher and FSS contract, the family's FSS contract will be terminated and any escrow money will be returned to the HACSD.

#### **AFFIRMATIVELY FURTHERING FAIR HOUSING – FSS Program**

In the administration of its Family Self-Sufficiency program, the HACSD will follow the processes and procedures already established in the Section 8 Housing Choice Voucher Program Administrative Plan (Chapter 1) and:

- Market the Family Self-Sufficiency program equally to all eligible Section 8 Housing Choice Voucher families, including to persons with disabilities and to persons with limited English proficiency.
- Ensure buildings and communications that facilitate applications and service delivery are accessible to persons with disabilities.
- Provide referrals to fair housing agencies as needed or requested.
- Inform participants how to file a fair housing complaint including providing the toll-free number for the Housing Discrimination Hotline.

Records will be maintained in individual case files and in FSS Coordinator files that document participant referrals to fair housing agencies. Information on race, ethnicity, familial status, and disability status of FSS program participants and all

Section 8 Housing Choice Voucher participants is kept and transmitted to HUD regularly via form HUD-50058.

## **MAINSTREAM VOUCHERS**

[24 CFR 982]

The Mainstream Voucher Program involves the administration limit of 50 Housing Choice Vouchers designated for disabled families (head, spouse, or sole member is disabled). The HACSD must closely monitor the families on the program and provide additional assistance to the families to enable them to obtain and retain assisted housing. In all other respects, these vouchers are administered in conformance with this Plan. The participants for this program will be selected off of the Section 8 waiting list and eligibility is contingent on the head of household, spouse or sole member being a person with disabilities, and has a household income limit up to 50% Area Median Income (AMI), but not to exceed 80% AMI based on the family size. If the waitlist has exhausted all disabled applicants, then an application of outreach referral can be submitted from an outside provider.

Additional accommodations to Mainstream Voucher holders include providing resources with regard to unit accessibility and any other resourceful needs requested in order to fully utilize the program. Mainstream vouchers are allowed to have a bedroom payment standard of 110% of HUD's current Small Area Fair Market Rent (SAFMR) and can request up to 120% of the SAFMR as a reasonable accommodation.

## **MODERATE REHABILITATION PROGRAM**

[24 CFR 882]

The HACSD administers the Section 8 Moderate Rehabilitation (Mod Rehab) Program, which is a project-based assistance program that had long-term contracts with private rental housing owners to set aside a number of rental units for eligible low-income families. The program initially provided loans to rehabilitate the rental units.

The remaining Mod Rehab complex contracts are renewed annually by execution of a newly signed contract. The annual process includes the determination of establishing the unit bedroom contract rents are reasonable, conducting an overall inspection of the complex surrounding areas, and individual unit inspections in accordance to Housing Quality Standards (HQS). Determination to abate the HAP will be in reference to this administrative plan. Rental assistance is paid to landlords on behalf of eligible tenants similarly to the Section 8 Rental Assistance Program, although additional assistance may be paid to landlords to assist in repayment of Mod Rehab loans

provided to rehabilitate the units. The size of the program is reduced until the long-term contracts expire and are not renewed.

The Mod Rehab Program is administered in compliance with the regulations, and all discretionary activities are administered, wherever possible, in conformance with the current Section 8 Administrative Plan.

### **MOD REHAB WAITLIST**

The HACSD administers a Mod Rehab waiting list and eligible tenants for placement in vacancies will be taken from this waiting list whenever possible. This list must be requested by the owner, or owner's designee, prior to the upcoming vacancy. Interest letters and surveys are mailed to the applicants whose household composition meets the vacant unit's bedroom size. Applications are reviewed by HACSD staff to ensure program compliance. If it is impossible to fill vacancies from the waiting list within the prescribed period of time, the HACSD may accept the owner's, or owner's designee's application referral recommendation of an eligible candidate for placement on the HACSD's waiting list and for immediate eligibility processing. It is the responsibility of the owner or owner's designee to cross reference rental history and securing of the security deposit of the applicant prior to the referred application.

### **OVERCROWDED AND UNDER OCCUPIED UNITS**

If a unit has been determined as either being overcrowded or under occupied by reason of increase in family size or the unit is larger than the household occupancy size, the HAP will NOT be abated; however, the owner or owner's designee must offer the family a suitable alternative unit should one become available and the family will be required to transfer units. If the owner or owner's designee does not have an appropriate sized unit within their Mod Rehab complex, then the PHA must assist the family in locating another unit by contacting the other Mod Rehab complex landlords to inquire on unit size availability and arrange for transfer. The family will not be forced to move nor will the HAP under the contract be terminated unless the family rejects without good reason the offer of a unit of which the PHA determines to be acceptable.

### **VACANCY LOSS CLAIMS**

The HACSD will pay properly filed vacancy loss claims to the owner of a vacated unit at 80% of the Contract Rent for a maximum period of one month. The HACSD may deny vacancy loss and take action to terminate the Mod Rehab contract, if there is evidence the owner or designee is circumventing the fair and impartial process of placement of a referred waiting list candidate into the vacant unit by engaging in the following activities:

- Not contacting a waiting list candidate referred by the HACSD.
- Not being available when a waiting list referral repeatedly attempts to make contact.
- Not returning the calls of waiting list referrals.
- Refusing to show the unit or offering to show the unit at unreasonable times.
- Not having the unit cleaned, repaired, and ready to show within the prescribed time.
- Not providing applications to waiting list referrals.
- Not providing information on why applications were denied.
- Denying applications based on illegal or inequitable reasons.
- Being rude, discourteous, unpleasant and/or hostile to waiting list referrals.
- Otherwise engaging in actions or inactions that discourage an eligible waiting list referral.

Special Claims/Vacancy Loss must be in accordance with the requirements set forth elsewhere in this plan.

### **INFORMAL REVIEW REQUESTS**

A Mod Rehab participant is not entitled to an informal hearing if the landlord takes action to terminate the lease. A Mod Rehab participant is entitled to an informal hearing if the HACSD makes the determination that the participant is no longer eligible for participation in the Mod Rehab Program in accordance with the eligibility requirements addressed elsewhere in this Plan. The participant must submit the request for an informal hearing within 14 days from the initial notice of action date.

### **CONFLICT OF INTEREST**

The HACSD will neither approve nor accept an owner referral for placement in a vacancy if any family member is a close personal friend of the owner or the owner's designee, or if any family member is related to the owner or owner's designee by blood or marriage. These families may be placed on the Mod Rehab waiting list, but all preferences apply, and they must properly wait their turn for fair and impartial selection from the Mod Rehab waiting list.

If the HACSD determines that the owner or the owner's designee is circumventing the waitlist referral guidelines, then the following action(s) will occur:

- A warning notice will be sent to the owner and/or the owner's designee, informing them of the proper waitlist procedures.
- The HACSD will not accept future waitlist referrals from the owner and/or the owner's designee if a pattern of referral abuse has been determined.
- Contract termination for continuous contract breach.

## **SPECIAL HOUSING TYPES TO EXPAND AFFORDABLE HOUSING OPPORTUNITIES**

The HACSD will consider requests for special housing types on a case-by-case basis. The HACSD is open to special housing types for all families, if their use will expand affordable housing opportunities. In all cases, the HACSD will authorize the use of special housing types as a reasonable accommodation to those with a disability, so that the program is readily accessible and usable.

The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

### **SINGLE ROOM OCCUPANCY**

[24 CFR 982.602]

The HACSD will use a separate lease and housing assistance payment contract for each assisted person residing in a Single Room Occupancy (SRO) unit. [24 CFR 982.603]

### **SRO RENT AND HOUSING ASSISTANCE PAYMENT**

[24 CFR 982.604]

#### **Payment Standards**

The HACSD SRO payment standard is 75 percent of the zero bedroom payment standard. For a person residing in an exception area, the payment standard is 75 percent of the HUD-approved zero bedroom exception payment standard amount. For all SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

#### **Rent Reasonable**

The rent must be rent reasonable in accordance with the rent reasonableness policies in this Plan.

#### **Utility Allowance**

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

### **Housing Quality Standards**

The HACSD will ensure that all SRO units approved for the program are in compliance with all of the HQS for SROs as regulated in 24 CFR 982.605.

## **CONGREGATE HOUSING**

[24 CFR 982.606]

Only elderly person(s), or a person(s) with disabilities, may reside in a congregate housing unit. Other families are not eligible for this special housing type.

The HACSD may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The HACSD will approve a live-in aide, if needed, for an elderly person, or as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **CONGREGATE HOUSING LEASE AND HAP CONTRACT**

[24 CFR 982.607,982.608]

Congregate housing requires a separate lease and HAP contract for each assisted family.

The payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard, unless the participant has a live-in aide.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

The HACSD will approve applications for congregate housing on a case-by-case basis. The HACSD may require the names of the unassisted household members, and may not approve the application for congregate housing if it is determined the living arrangement may result in a circumvention of the program regulations, such as in the case of unassisted household members who were barred from program participation.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

### **RENT REASONABLE**

The rent must be rent reasonable in accordance with the rent reasonableness policies in this Plan.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

### **GROUP HOMES**

[24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the state, or the state's licensing department. The license or certification must specify that the group home is for elderly persons or persons with disabilities.

Elderly person(s) or a person(s) with disabilities may reside in a state-approved group home. If approved by the HACSD, a live-in aide may reside with a person with disabilities. Other persons are not eligible to reside with the participant.

The HACSD must approve a live-in aide, if needed for an elderly person or as a reasonable accommodation, so that the program is readily accessible to and usable by persons with disabilities. Except for live-in aides, all residents of a group home must be elderly persons or persons with disabilities.

The HACSD will not approve assistance for a person to live in a group home if documentation indicates that the person is in need of continual medical or nursing care.

No more than 12 persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aides.

### **GROUP HOME LEASE**

[24 CFR 982.611]

A separate HAP contract and lease is required for each assisted person living in a group home. For a group home, the term "pro-rata portion" means the ratio derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any HACSD-approved live-in aide.

### **GROUP HOME RENT**

[24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with CFR 982.507. In determining reasonable rent, the HACSD will consider whether sanitary facilities, and facilities for food preparation and service, are common or private.

### **RENT REASONABLE**

The rent must be rent reasonable in accordance with the rent reasonableness policies in this Plan.

### **MAXIMUM SUBSIDY**

The family unit size is usually one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size, or the pro-rata portion of the payment standard amount on the HACSD payment standard schedule for the group home size.

### **UTILITY ALLOWANCE**

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

### **SHARED HOUSING**

[24 CFR 982.615]

### **OCCUPANCY**

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The HACSD may approve a live-in aide to reside with a family in order to care for an elderly or near elderly person, or a person with a disability. The HACSD 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.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit, but may never be related to the family by blood or marriage, unless the living situation warrants a reasonable accommodation.

The HACSD will approve applications for shared housing on a case-by-case basis. The HACSD may require the names of the unassisted household members, and will not approve the application for shared housing if it is determined the living arrangement may result in a circumvention of the program regulations, such as in the case of unassisted household members who were barred from program participation for violations of the program.

A resident owner may enter into a HAP contract with the HACSD. However, housing assistance may not be paid on behalf of an owner. A live-in aide may not be an owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

### **RENT AND HAP CONTRACT**

[24 CFR 982.617]

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five-bedroom unit, the ratio would be 3/5. In this case, suppose the owner rents a five-bedroom house for \$1500. The assisted family's contract rent is \$900 (3/5 of the total rent).

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the standard Section 8 regulations in this Plan.

If the family is renting a room or rooms from a resident owner, the rent for the rooms must be rent reasonable. The rents on comparable rooms for rent must be reviewed, as well as the pro-rated reasonable rent for a like unit.

### **MAXIMUM SUBSIDY**

For a family that resides in a shared housing unit, the payment standard is the lower of the payment standard amount on the HACSD payment standard schedule, or the

pro-rata portion of the payment standard amount on the HACSD payment standard for the actual shared housing unit size. For example, if the family is in three bedrooms of a five-bedroom unit, a comparison will be made of the three-bedroom payment standard vs. 3/5 of the five-bedroom payment standard. The HACSD will use as a payment standard the lower of the two.

If the HACSD approves a live-in aide, the live-in aide will be counted in determining the family unit size. The live-in aide may **never** be the owner of the assisted unit.

### **UTILITY ALLOWANCE**

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit. For example, there are five bedrooms in the unit, the family occupies three of the five bedrooms and pays for its share of the total utilities. In this case, 3/5 of the total five-bedroom utilities would be given to the family as a utility allowance deduction.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

A zero or one-bedroom unit is ineligible for shared housing. The housing unit must have an adequate number of bedrooms to house both the assisted and unassisted family and the assisted family must have an adequate number of bedrooms so it is not overcrowded. Alternate sleeping areas will not be considered in shared housing.

### **COOPERATIVE HOUSING**

[24 CFR 982.619]

The HACSD will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The HACSD will not approve assistance for a family in cooperative housing until the HACSD has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with the Section 8 regulations in this Plan. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge, plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge similarly to regular Section 8 rent adjustments described in the rent reasonableness section of this Plan.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the standard Section 8 guidelines in this Plan.

The HACSD may approve a live-in aide to reside with the family to care for an elderly or near elderly person, or person with disabilities. The HACSD will approve a live-in aide if needed as a reasonable accommodation, so that the program is readily accessible to and usable by persons with disabilities. If the HACSD approves a live-in aide, the live-in aide will be counted when determining the family unit size.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" chapter, and regulated by 24 CFR 982.401.

### **MANUFACTURED HOMES**

[24 CFR 982.620]

The HACSD will permit a family to lease a manufactured home and space with assistance under the program just as a house or apartment may be leased. The HACSD will provide assistance for a family that owns the manufactured home and leases only the space.

The HACSD may approve a live-in aide to reside with a family to care for an elderly or near elderly person, or a person with disabilities. The HACSD will approve a live-in aide if needed as a reasonable accommodation, so the program is accessible to and usable by persons with disabilities. If the HACSD approves a live-in aide, the live-in aide must be counted when determining the family unit size. A live-in aide may **never** be an owner of the manufactured home or the park.

### **HOUSING QUALITY STANDARDS**

[24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" section of this Plan and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

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 HACSD has a HUD waiver for the tie-down requirement for manufactured homes.

### **MANUFACTURED HOME SPACE RENTAL**

[24 CFR 982.622]

Rent to owner for a manufactured home space will include payment for maintenance services the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

### **REASONABLE RENT**

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the HACSD.

The HACSD will not approve a lease for a manufactured home space until the HACSD has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HACSD will re-determine that the rent is reasonable.

The HACSD will determine whether the rent to the owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The HACSD will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease. The HACSD will evaluate reasonable rent annually whether the rent has increased or not.

By accepting each monthly housing assistance payment from the HACSD, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park, or elsewhere. If requested by the HACSD, the owner must provide the HACSD information on rents for other manufactured home spaces.

### **PAYMENT STANDARD**

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a manufactured home owner who is renting the manufactured home space will equal the lesser of:

The regular payment standard minus the total tenant payment; or

The gross rent for rental of the real property on which the manufactured home owned by the family is located (the space rent), minus the total tenant payment.

The rent of a manufactured home space 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 utility allowance for tenant-paid utilities.

**UTILITY ALLOWANCE SCHEDULE FOR MANUFACTURED HOME SPACE RENTAL**

[24 CFR 982.624]

The HACSD will establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system. The HACSD has adopted separate utility allowances for water, sewer and trash, but other utilities are the same for manufactured homes as for other housing types of the same size.

## **HOMEOWNERSHIP**

[24 CFR 982.625]

**New applications for the Housing Choice Voucher Homeownership Program are not being accepted.**

### **GENERAL**

The HACSD Housing Choice Voucher Homeownership Program is designed to expand homeownership opportunities for voucher participants. This program will assist HCV participants as they transition from rental assistance to homeownership using their voucher assistance. The HACSD has adopted the homeownership option, although it may not be readily workable given the high cost of housing within the HACSD jurisdiction. The Homeownership Program will be administered as follows:

- The HCV Homeownership Program is available to voucher holders who meet the minimum qualifications set forth in this plan and who have the ability to independently secure a mortgage loan. Co-signers are not allowed. The number of participants served through the HCV Homeownership program is currently limited to the parameters set forth in the [HACSD Agency Plan](#).
- The HACSD 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, and/or are elderly or near elderly.
- The HACSD may limit homeownership to a maximum number of searching families at any time, reduce the program size, or suspend the program.
- The HACSD may provide homeownership assistance in the form of monthly payments, or as a down payment assistance grant. The HACSD will offer the form of assistance it determines to be the most beneficial to the family.
- A family that includes a person who was an adult member of a family that previously received either form of homeownership assistance may not receive any other form of assistance from the HACSD.
- The HACSD will offer homeownership assistance only to those families who qualify under the guidelines, policies and regulations stated in this chapter.

### **ELIGIBILITY REQUIREMENTS**

[24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must be receiving rental assistance through the HACSD's Housing Choice Voucher program for the last 12 months.
- The family must qualify as a first-time homeowner, or be a cooperative member.
- The family must provide seasoned asset verification of a minimum of 1% of the purchase price of the home in a savings account. The term "seasoned asset" is defined as having been in the savings account for a year or longer.
- The PHA has established a minimum income requirement based on the most recent County Median Income figures. To meet the gross Annual Earned Income requirement, the family must earn at least 50 percent of the current County Median Income for the family's size. The family may contact the HCV Homeownership Program Coordinator for the most recent County Median Income figures.
- In the case that the family meets the federal minimum income requirement, the adult family members who will own the home must have a gross non-welfare annual income equal to the federal minimum wage multiplied by 2000 hours. Unless the family is elderly or disabled, income from welfare assistance will not be counted toward this requirement.
- The family must meet the federal minimum employment requirement.

At least one adult family member who will be on the mortgage document to own the home must be currently employed full-time (no less than 30 hours per week) at state minimum wage or above, and must have continuous employment for a period of no less than 12 months prior to the application of the HCV Homeownership Program.

HUD regulations define "full time employment" as not less than an average of 30 hours per week at state minimum wage or above.

Part-time employment by both parties, totaling over 30 hours per week at state minimum wage or above, does not constitute full-time employment by either party.

The applicant head of household, spouse or adult on the mortgage document must remain continuously employed (no less than 30 hours per week) at state minimum wage or above while participating in the program.

A family member will be considered to have been continuously employed even if that family member has experienced a break in employment, provided that the break in employment:

- Did not occur within the last nine-month period immediately prior to the family's request to utilize the homeownership option;
- Did not last more than four weeks; or,
- Has been the only break in employment within the past 12 calendar months.

HACSD has the discretion to interpret small gaps in employment. Permissible gaps can only occur if loss of employment resulted from measures beyond the employee's control (layoff, medical emergency); and did not result in an employment gap of more than four consecutive weeks.

Documentation of the initial employment requirement for the HCV Homeownership program will be completed using the *Employment Verification Form*. All verifications will be completed via EIV, third-party written or oral communication with the applicant's employer. Annual documentation of the full-time employment requirement will be completed at the annual reexamination.

Lenders may have separate requirements, and may further require participants to demonstrate a history of full-time, continuous employment of no less than 24 months at 40 hours per week.

The federal minimum employment requirement does not apply to elderly or disabled families who must meet the minimum income requirement of the current monthly Supplemental Security Income benefit multiplied by 12.

Welfare assistance payments for adult family members who will own the home will be included in the determination of the minimum income requirement in the case of families with an elderly or disabled head, spouse or sole member.

Families meeting the HUD federal minimum income requirement must nevertheless be considered to meet the PHA income requirement if:

- The family meets the applicable HUD standards; and
- The family demonstrates that the family has been pre-approved or pre-qualified for financing in an amount sufficient to purchase decent, safe and sanitary housing of modest design in the PHA's jurisdiction.

The pre-approved or pre-qualified financing must further meet any PHA requirements for financing in general, including the qualifications of the lender and the terms of the loan.

- Any family member who has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future homeownership assistance.
- An applicant must be in good standing with their landlord and HACSD with regard to their family obligations and contracts.

The family must satisfy the prerequisite of being in “good standing” prior to receiving a Certificate of Eligibility for the homeownership program. For the purposes of the homeownership program, “good standing” is defined as meeting all of the conditions prior to and during the homeownership shopping period, as outlined below.

A landlord reference(s) indicating that during the prior year the family has an uninterrupted record of paying monthly rent in full and on time, and satisfactorily meets all other lease obligations as documented on the *Homeownership Landlord Reference* form. All verifications will be completed via third-party written or oral communication with the applicant’s landlord.

The HACSD will impose the following additional initial requirements:

- The family has no family-caused violations of HUD’s Housing Quality Standards within the last year.
- The family is not within the initial term of the lease.
- The family does not owe money to the HACSD.
- The family has not committed any serious or repeated violations of a HACSD-assisted lease within five years.
- The family has not had any arrests for violent or drug-related criminal activities over the last five years.

### **RANKING PREFERENCES**

When there are program vacancies, program participants will be recruited from the HACSD’s Family Self-Sufficiency Program. Other preference groups will not be actively solicited, but will be mailed an application to the program’s waiting list upon request. Candidates who receive top ranking will be those who have the largest amount of non-committed seasoned savings to apply toward down payment and closing costs.

Program participation will be offered to eligible candidates in the following priority order, with date and time of application to the program’s waiting list to be the deciding factor among priority groups:

- (1) Family Self-Sufficiency (FSS) program participants who have not yet received FSS escrow account full payout or who had received FSS escrow account

payout within 30 days of the date they completed the Qualification Questionnaire.

- (2) Section 8 program participants displaced from an assisted rental unit that is undergoing a condominium conversion, are pre-qualified for a loan to purchase their units, and who meet the Homeownership Program requirements are eligible for participation.
- (3) Portability Homeownership participants who were found eligible for the Section 8 Homeownership program at the initial agency and the initial agency certifies they are porting as Homeownership participants and not porting for rental assistance.
- (4) A family with a person with disabilities that has been pre-qualified for a loan and identified a property in the jurisdiction of the HACSD that the family has sufficient resources to purchase.
- (5) Housing Choice Voucher program participants who will graduate from a training or educational course within the next six months and expect their annual earnings to increase within the next year. Candidates who receive top ranking will be those who have the largest amount of money to apply toward down payment and closing costs, and then by those who have the highest annual income.
- (6) Other Housing Choice Voucher program participants who are pre-qualified for the purchase of a residence and have identified an eligible residence.
- (7) Other Housing Choice Voucher program participants.

## **HOMEOWNERSHIP COUNSELING REQUIREMENTS**

[24 CFR 982.630]

When the family has been determined eligible, it must attend and satisfactorily complete homeownership counseling sessions. HACSD staff or another counseling service will hold the counseling sessions. Such counseling shall be consistent with HUD-approved housing counseling.

The following topics will be included in the homeownership counseling sessions:

- 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 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 HACSD jurisdiction.
- The advantages to 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.
- How to identify and avoid loans with oppressive terms and conditions.

## **ELIGIBLE UNITS**

[24 CFR 982.628]

Eligible homes must be located within the respective geographic boundaries that govern the HACSD's HCV rental program.

A family approved for homeownership assistance may purchase the following type of homes:

A new or existing home;

A one-unit property or a single-family home;

A condominium;

A home in a planned-use development, a cooperative, a loft or live/work unit; or

A manufactured home, if situated on a privately-owned lot or on a leased pad in a mobile home park.

If the family does not own fee title to the real property on which the home is located, the family must have the right to occupy the site for a period of at least forty (40) years and the home must have a permanent foundation.

A unit can be under construction at the time a family enters into the contract of sale. A unit is considered to be "under construction" if the footers have been poured. The PHA will not commence Housing Assistance Payments until the unit has satisfactorily passed an HQS and an independent inspection (performed by an independent inspector designated by the family), and meets all other program 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;
- A facility providing continual psychiatric, medical or nursing services;
- A college or other school dormitory;
- A penal, reformatory, medical, mental, or similar public or private institution;
- A manufactured home in a park, with the exception noted above.

The HACSD must not approve the seller of the unit, if the HACSD has been informed that the seller is debarred, suspended, or subject to a limited denial of participation. The HACSD may disapprove the seller for any reason provided for disapproval of an owner in the voucher program.

### **HACSD SEARCH AND PURCHASE REQUIREMENTS**

[24 CFR 982.629]

The HACSD has established the maximum time that will be allowed for a family to locate and purchase a home. The HACSD may, at its discretion, allow a reasonable extension of the maximum time, if requested in writing with justification.

The family's deadline date for locating a home to purchase will be 210 calendar days from the date the family's eligibility for the homeownership option is determined.

The family must obtain financing for the home within 120 calendar days of the date the home was located.

The family must purchase the home within 270 calendar days of the date the home was located.

The HACSD will not require periodic reports on the family's progress in finding and purchasing a home.

If the family is unable to purchase a home within 600 days from the date the family's eligibility was determined, the HACSD will place the family's name on the voucher waiting list at the bottom. The HACSD may extend the deadlines for locating and purchasing a home upon request.

### **INSPECTION AND CONTRACT**

[24 CFR 982.631]

The unit must meet HQS, and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

Foundation and structure;

Housing interior and exterior;

Roofing;

Plumbing, electrical and heating systems.

The independent inspector must not be a HACSD employee or contractor. The HACSD will not require the family to use an independent inspector selected by the HACSD, but the inspector selected must hold credentials required by the lending industry.

Copies of the independent inspection report will be provided to the family and the HACSD. Based on the information in this report, the family and the HACSD will determine whether any pre-purchase repairs are necessary.

The HACSD may disapprove the unit for homeownership assistance based on information in the report.

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the HACSD. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also state the following contingencies, as there are **NO EXCEPTIONS**:

- State the purchaser is not obligated to buy the unit unless the inspection is satisfactory.
- State the purchaser is not obligated to pay for necessary repairs.
- Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.

### **FINANCING**

[24 CFR 982.632]

The family is responsible for securing financing. The HACSD has established financing requirements, listed below, and may disapprove proposed financing if the HACSD determines that the debt is unaffordable. Co-signers are not allowed.

The HACSD will, on the primary loan, prohibit the following forms of financing:

- Principal and interest payment increases (e.g., interest-only payment or at the beginning of the loan)
- Balloon payment mortgages
- Variable interest rate loans
- Adjustable interest rate loans

The above restrictions do not apply to secondary financing offered through first-time homebuyer closing costs and down payment assistance programs.

The HACSD requires a minimum cash down payment of one percent (1%) of the purchase price of the home to be paid from the family's **own seasoned savings**. The total down payment must be at least three percent (3%) of the purchase price. The 2% requirement is satisfied by receiving funds through first-time homebuyer down payment assistance programs, **as long as repayment is forgiven or deferred**.

Closing costs must be reasonable when compared to the standard industry practices of major reputable lenders backed by Fannie Mae or Freddie Mac.

A participating homeownership family may not refinance for an amount greater than the current loan balance, and the new loan is subject to the above restrictions.

### **CONTINUED ASSISTANCE**

[24 CFR 982.633]

Homeownership assistance will only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

### **Continuous Reporting Requirements**

A family must disclose all changes in income within fourteen (14) business days of the change and at the annual reexamination. Failure to disclose or accurately report changes will jeopardize a family's continued participation in this program. A family may not add an adult household member without prior HACSD approval. HACSD will deny admission to any individual who would otherwise not qualify for admission to the program due to criminal history, drug-related history, or registry on a sex-offender list.

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 provide required information regarding income and family composition in order to correctly calculate the total tenant payment (TTP) and homeownership assistance, consistent with the HCV requirements as specified in CFR 982.551(b), and any other information requested by HACSD or HUD concerning financing or refinancing, the sale or transfer of any interest in the home, or the family's homeownership expenses.
- The family must notify the HACSD before moving out of the home.
- The family must notify the HACSD if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.

The payment standard will be increased when the applicable payment standard increases, but the payment standard will never be less than the payment standard at the time of home purchase.

Families are subject to annual and interim examinations in accordance with the policies elsewhere in this Plan. The limitations on household additions do not apply.

No annual HQS inspection is required. The family agrees to maintain the condition of the home to comply with the minimum HUD Housing Quality Standards (HQS). HACSD reserves the right to conduct interim HQS inspections before continuing to provide yearly homeownership assistance. HACSD may exercise this option if it has reason to believe the home would no longer meet HQS standards, or has reason to believe that unauthorized individuals are living in the household.

A PHA inspection is required if the PHA has granted as a reasonable accommodation an additional bedroom size for medical equipment or for a live-in aide. The inspection is to verify that the additional bedroom is being used for its intended purpose. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. Special HQS inspections may be conducted if there is information indicating the unit is violating HQS.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

### **Continuous Employment Obligations**

The applicant head of household or spouse must remain continuously employed (no less than 30 hours per week) at state minimum wage or above while participating in the program.

Part-time employment by both parties, totaling over 30 hours per week at state minimum wage or above, does not constitute full-time employment by either party.

For continued eligibility purposes, continuous employment is defined two ways:

Continuous employment by the head, spouse or co-head defined as full-time employment (average of 30 hours per week) at state minimum wage or above with no gap in employment lasting more than four weeks total (30 hours x 48 weeks = 1,440 hours).

Or, earned income received by the head, spouse or co-head during the past year greater than the state minimum wage times 1560 hours.

The employment requirement is not applicable to elderly families or those whose head or co-head of household, spouse or sole member experience permanent disability.

## **Mitigating Circumstances**

If a working family is subsequently determined by HACSD to now qualify as a “disabled family,” as defined by HUD, the full-time employment requirement is no longer applicable to that family.

HACSD will consider mitigating circumstances where certain lapses in employment prohibit the family from meeting its continuous employment obligation. These include receipt of Unemployment Insurance Benefits due to layoff; absences defined under the Family Medical Leave Act; receipt of Worker’s Compensation benefits.

HACSD will allow week-for-week substitutions whenever of any of these benefits are received.

The participant must return to full-time employment within 30 days after exhaustion of unemployment benefits. Failure to return to full-time employment (30 hours per week) at state minimum wage or above within 30 days will generate a 60-day *Notice to Correct*. Failure to correct will result in a correctable 30-day *Notice of Termination*.

A participant who is employed but is on leave from work due to maternity leave, FMLA or is receiving Worker’s Compensation, is exempt from the full-time employment requirement during the period of approved leave from work. A participant must return to full-time employment within 30 days after exhaustion of applicable benefits. Willful failure to return to full-time employment (30 hours per week) at state minimum wage or above, after 30 days, will generate a 60-day *Notice to Correct*. Failure to correct will result in a correctable 30-day *Notice of Termination*.

Consideration of other mitigating circumstances is at the discretion of the Program Coordinator recommendation to the HCV Program Administrator. The Program Administrator will convene a three-person committee to review any additional mitigating circumstances that prevent a participant’s return to full-time employment within the time frames allotted. Determinations of the review committee are made on a case-by-case basis. Their decisions may be subject to final approval by the HACSD Deputy Director.

## **Guests and Changes in Family Composition**

All changes in family composition must be reported to the Housing Program Specialist. All new family members must be approved as eligible residents before moving into the residence.

Family guests are permitted for a period not to exceed 30 days in any calendar year. HACSD may consider persons who exceed the 30 day occupancy limit, or who use the residence as a personal mailing address, unauthorized family members. The family may be in violation of their family obligations and HACSD may take appropriate action up to and including termination of assistance.

**MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE**

[24 CFR 982.634]

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

- Fifteen years, if the initial mortgage term is 20 years or longer; or
- Ten years in all other cases.

The elderly exception only applies if the family is qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least six months of homeownership assistance after the maximum term becomes applicable.

Upon the death of a family member who holds, in whole or in part, title to the home, homeownership assistance may continue, pending settlement of the decedent's estate. The home must be solely occupied by remaining family members in accordance with 24 CFR 982.551(h).

For a non-elderly/non-disabled family, the total homeownership assistance received by a family, whether on different homes or through different public housing agencies, cannot exceed the eligible term of assistance based on the of the initial mortgage loan.

**HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES**

[24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HACSD will use the same payment standard schedule, payment standard amounts, utilities, and

subsidy standards as for its Section 8 Rental Assistance Program. However, the payment standard may never be below the payment standard applicable at the time of home purchase.

The HACSD will pay the homeownership assistance payment directly to the lender.

Some homeownership expenses are allowances or standards determined by the HACSD in accordance with HUD regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

- Principal and interest on mortgage debt.
- Maintenance and major repairs expenses calculated at \$1 per square foot of the residence. For example, annual maintenance expenses for a 1500 square foot home would be \$1500.
- Mortgage insurance premium.
- Taxes and insurance.
- The HACSD utility allowance used for the voucher program.
- If the home is a cooperative or condominium, expenses also include operating expenses or maintenance fees assessed by the homeowners' association.

Annual expenses are calculated and then divided by 12 to calculate monthly homeownership expenses.

Participation in the HCV Homeownership Program shall continue until such time as the housing assistance payment (HAP) amounts to zero for a period of 180 consecutive days. At that time the family will no longer be eligible and the HAP will be terminated. However, should the family go to zero HAP for 180 consecutive days, the HACSD reserves the right to extend the period past 180 days, should there be documented extenuating circumstances to justify an extension to the time period. Such documented extenuating circumstances include but are not limited to:

- Death in the family;
- Loss of employment or income due to no fault of the family;
- Documentation of a medical or financial hardship beyond the control of the family for a member of the assisted household.

After receipt of verification, the HACSD may reinstate the family into the program subject to available funding and other program requirements.

**PORTABILITY**

[24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and this Plan, the 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 receiving PHA arranges for housing counseling and the receiving PHA's homeownership policies apply.

The HACSD will accept incoming portables into its Homeownership Program, so long as they are identified as Homeownership participants by the initial PHA and they are porting for the sole purpose of home purchase.

**MOVING WITH CONTINUED ASSISTANCE**

[24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The HACSD will deny permission to move with continued rental or homeownership assistance, if the HACSD determines that it does not have sufficient funding to provide continued assistance.

The HACSD will require the family to complete additional homeownership counseling prior to moving to a new unit with continued assistance under the homeownership option.

**DENIAL OR TERMINATION OF ASSISTANCE**

[24 CFR 982.638]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program contained in this Plan. However, the provisions of 24 CFR 982.551 (c) through (j) are not applicable to homeownership. The provisions not applicable are:

- (c) HQS Breach caused by the family;
- (d) Allowing PHA inspection;

- (e) Violation of the Lease;
- (f) Family notice of move or lease termination;
- (g) Owner eviction notice;
- (h) Use and occupancy of the unit;
- (i) Absence from unit;
- (j) Interest in unit.

The HACSD will terminate homeownership assistance if the family is dispossessed of the home due to a judgment or order of foreclosure due to family defaults on the mortgage.

The HACSD will permit such a family to move with continued voucher rental assistance. However, rental assistance will be denied if the family defaulted on an FHA-insured mortgage, and the HACSD will not permit such a family to move with voucher rental assistance if the family fails to demonstrate that:

- The family conveyed title to the home as required by HUD; and
- The family moved within the period required by HUD.

The HACSD will terminate homeownership assistance if the family violates any of the family obligations contained in this section, this Plan, or the regulations.

The HACSD will terminate homeownership assistance if the family commits any of the following violations:

- Transfer or conveyance of ownership of the home;
- Failure to provide requested information to the HACSD or HUD;
- Failure to notify the HACSD before moving out of the home;
- Refusal to meet continuous work requirement.

The HACSD may terminate a working family's homeownership assistance based on a willful refusal to adhere to, or properly document, the full-time employment requirement.

**RECAPTURE OF HOMEOWNERSHIP ASSISTANCE**

[24 CFR 982.625(H)]

HACSD will not recapture the Homeownership Voucher payments unless there was an act of fraud or misrepresentation of a material fact in order to obtain a benefit. The HCV Homeownership recapture provision does not apply to any other program funds that may be used in the transaction.

## **PROJECT-BASED HOUSING CHOICE VOUCHERS**

[24 CFR 983, FR Notice 1/18/17, PIH Notice 2017-21]

### **GENERAL PROVISIONS**

The project-based component of the Housing Choice Voucher (HCV) Program allows rental assistance to be attached to a specific unit and/or project instead of to a particular eligible assisted family. The project may be owned by any individual, corporation, trust, partnership, non-profit entity, as well as by the Housing Authority of the County of San Diego (HACSD), excluding those sanctioned from participation.

HACSD may allocate, for a term to be identified by HACSD and in accordance with all current applicable guidelines and regulations, up to 500 Housing Choice Vouchers through the Section 8 Project-Based Housing Choice Voucher Program. HACSD may issue project-based vouchers in limited increments and in a manner consistent with a varied geographical distribution. These increments will be targeted to special needs populations as defined in the County of San Diego Consortium 2015-2019 Consolidated Plan. Project Based Vouchers may only be issued to projects located within the jurisdiction of the HACSD.

### **TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE**

#### **[24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HACSD 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.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACSD policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

### **CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

#### **25 Percent per Project Cap [24 CFR 983.56]**

In general, the PHA may 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 the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

### **Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17]**

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

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, as determined in the most recent American Community Survey Five-Year estimates.

- For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

### **Supportive Services**

The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

### **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 PHA either issued the RFP under which the project was selected or the PHA 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 202303), 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.

**HOUSING TYPE [24 CFR 983.52]**

HACSD may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing. HACSD's choice of housing type will be reflected in its solicitation for proposals.

Project must be in compliance with all relevant federal, state and local laws, as well as all zoning and other regulatory requirements. Taxes, fees, assessments, insurance, mortgages, or any other debts related to the projects must be kept current. The

project must be maintained in accordance with the provisions of the contract. Project owners must take prompt action against residents engaging in illegal activities on the premises.

### **Ineligible Housing Types [24 CFR 983.53]**

HACSD may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of the AHAP.

### **Subsidized Housing [24 CFR 983.54]**

HACSD may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or HACSD in accordance with HUD requirements.

**NON-COMPLIANCE WITH SUPPORTIVE SERVICES REQUIREMENT**

[24 CFR 983.257(b), FR Notice 11/24/08]

If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception (e.g., the family does not successfully complete supportive services requirements; or, due to a change in family composition, the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

**PROJECT SELECTION PROCESS**

[24 CFR 983.51(c),

The HACSD procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the HACSD. The public notice procedures may include announcements via the HACSD website, in publications of general circulation, via HACSD's industry partner organizations and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline.

In accordance with program regulations, the HACSD may also engage in non-competitive selection of proposals for project-based vouchers for projects which have previously received assistance under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection (e.g., HOME, or properties which have received competitively awarded Low-Income Housing Tax Credits). To be eligible, these projects must have been selected in accordance with such program's competitive selection requirements

within three years of HACSD's project-based voucher proposal selection date and the prior competitive selection proposal must not have included any consideration that the project would receive any project-based voucher allocation.

Of importance to HACSD in reviewing project-based applications is:

- The extent to which the project contributes to the geographic distribution of affordable housing throughout the County of San Diego, promotes de-concentration of poverty, and furthers fair housing objectives;
- The extent to which special needs populations will be served and the level of corresponding supportive services;
- The project's ability to demonstrate local community support.

Further description of HACSD project-based voucher application criteria will be included in any public notification or application released. These vouchers will be allocated in accordance with all current and applicable guidelines and programmatic regulations.

### **ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The HACSD activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACSD may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACSD, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACSD must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. HACSD

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.

**SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]**

The HACSD may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

HACSD must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the Federal Register notice published July 9, 2010.

The HAP contract must contain the owner 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.

**AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including

clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

### **Content of the Agreement [24 CFR 983.152(d)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

HACSD may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, HACSD may not enter into the Agreement until the environmental review is completed and the HACSD has received environmental approval. However, HACSD does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental

reviews are not required for existing structures unless otherwise required by law or regulation.

### **HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

The PHA 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. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

### **Contract Information [24 CFR 983.203]**

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

### **Waiting List**

Separate waiting lists may be maintained for project-based assistance. If the HACSD determines a need for separate waiting lists, the HACSD will notify the public using one or more of the following methods: a notice to current regular Section 8 waiting

list applicants; publication in local newspapers to general circulation as well as minority media; Facebook postings; English and Spanish flyers in County libraries; postings on HACSD's website; Twitter blasts to the public; County press releases; and community meetings. All those on the regular Section 8 waiting list will be given the opportunity to place their names on the project-based waiting lists. The HACSD may also place families referred by the PBV owner on its PBV waiting list.

The HACSD currently has waiting lists for the following PBV projects:

- One list serves the Pine View complex in Fallbrook and the Vista Terrace complex in Vista.
- One list serves the Schmale Senior Family residence in Ramona.
- One list serves The Grove residence in Vista (Opening Winter 2019-20).
- One list serves the Villa Da Vida residence in Poway (Opening Winter 2019-20).

Families will be selected off the waiting list in accordance with HACSD-established selection preferences identified in Chapter Two of this Plan and as included in any MOU/MOA/HAP Contract Amendment between the HACSD and a PBV provider, except as noted below:

- Schmale Senior Family Residence–
  - Category One – Families having at least one member who is at least 62 years of age who live or work (see definition of working families) in the HACSD jurisdiction
  - Category Two – Families having at least one member who is at least 62 years of age
  - The HACSD will not process waiting list applications in a subordinate category before all waiting list applications in a superior category have been processed.
- Vista Terrace PBV Complex –
  - Category One – Disabled families\* who live or work (see definition of working families) in the HACSD jurisdiction
  - Category Two – Disabled families\*
  - The HACSD will not process waiting list applications in a subordinate category before all waiting list applications in a superior category have been processed.

- The Grove PBV Complex–
  - Category One – Families who consist of household members 62 years or older or who meet the “qualified permanent resident” definition under CA Civil Code 51.3 and who live or work (see definition of working families) in the HACSD jurisdiction
  - Category Two – Families who consist of household members 62 years or older or who meet the “qualified permanent resident” definition under CA Civil Code 51.3
  - The HACSD will not process waiting list applications in a subordinate category before all waiting list applications in a superior category have been processed.

The voluntary supportive services provided at The Grove include:

An on-site Services Coordinator trained in working with senior populations. Services Coordinator will be available at a minimum of 20 hours per week. Services will include:

- Social, cultural and recreational activities
- Exercise, fitness and wellness programs
- Adult education programs
  - Financial literacy
  - Computer training
  - Fraud prevention
- Assistance with coordinating medical appointments, home health care visits, etc.
- Routine check-ins with residents to ensure they are maintaining their ability to live independently
- Connecting residents to existing community resources including those offered at the Gloria McClellan Adult Activity & Resource Center:
  - Nutrition Program – reduced cost meals
  - Home delivered meals
  - Out and About Vista Transportation Service
  - Culture Caravan
  - Services, Activities and Classes, Clubs
  - Case Management
- Villa De Vida Complex –
  - Category One – Primarily Developmentally Disabled families\* (or disabled families who can benefit from the services provided at the complex) who live or work (see definition of working families) in the HACSD jurisdiction

- Category Two – Primarily Developmentally Disabled families\* (or disabled families who can benefit from the services provided at the complex)
- The HACSD will not process waiting list applications in a subordinate category before all waiting list applications in a superior category have been processed.

The voluntary supportive services provided at Villa De Vida will include:

A full-time on-site Resident Support Coordinator (RSC) trained in working with persons with intellectual/developmental disabilities (I/DD). The RSC helps residents:

- communicate with third-party community-based service providers,
- advocate for changes in support they may need,
- understand other opportunities from which they may benefit,
- communicate with service providers such as the Regional Center, SSI, ILS, and SLS,
- mediate between the property management staff and the residents to assist with the implementation of the Housing Support Plan (HSP) in the event a resident's tenancy is jeopardized,
- participate, upon resident request, in the update of the individual program plan (IPP). The IPP is an annual contracting process that outlines the goals and objectives of clients of the Regional Center and must be renewed to continue receiving services.

A full-time on-site Activity Coordinator (AC) experienced in working with persons with I/DD. The AC designs and develops special programming geared towards residents desired outcomes and interests. Examples include:

- planned social activities
- independent life skills classes
- cooking, healthy lifestyle classes
- employment assistance
- physical fitness
- crafting groups
- facilitation of residents participation in community-based activities.

The supportive services do not include:

- Licensed medical care
- On-site meal plans
- Case Management
- Individualized, or any other, in-home support services
- Medicaid waiver-funded residential, long-term support services (LTSS)
- Medication administration or management
- On-site mental health or substance-abuse services

- Money management or rep payee services
- Guardianship or another fiduciary role
- On-site therapies such as physical or occupational therapy though scheduling of space is provided at the development for resident therapies.

\*must meet definition at the time of selection from the waiting list

Families selected from the waiting list will be processed for eligibility in conformance with the regulations and the HACSD Section 8 Administrative Plan unless otherwise outlined in this Chapter. Families must meet income targeting guidelines in place at the time of selection from the waiting list. Families denied admission to the project will be returned to the waiting list, if eligible, with the appropriate selection preferences and original date and time of application.

In-place tenants will be given an absolute preference for selection from the HACSD's waiting list for the project. The term "in-place" tenants, means an eligible family residing in a proposed contract unit on the proposal selection date. A preference may be given for services offered at a particular project and a preference may be given to persons with disabilities whose disabilities significantly interfere with their ability to obtain and maintain themselves in housing; who, without such services will not in the future be able to maintain themselves in housing; and for whom such services cannot be provided in a non-segregated community. Disabled residents cannot be required to accept the services being offered. The project may be advertised as being for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services being offered.

The HACSD may establish selection criteria or preferences for occupancy of particular PBV units. HACSD's preference system will work in combination with requirements to match the characteristics for the family to the type ( **REV 10-18-19** ) e. For example, if a vacancy occurs in a two-bedroom unit, applicants will be selected based on established preferences as well as household size in accordance with subsidy standards.

As of February 24, 2020, the HACSD has established the following subsidy standard for all Project-Based Voucher developments: One bedroom is assigned for the head of household and spouse/co-head. Additional bedrooms are awarded for each additional two household members.

All other subsidy standards guidelines in Chapter 5 remain applicable, including exception requests as a reasonable accommodation.

For Project-Based Voucher (PBV) developments, the HACSD may establish different subsidy standards in order to meet the needs of a particular population or project.

## **PROGRAM ADMINISTRATION**

### **Inspection of the Projects and Units**

In order to ensure that the projects meet the appropriate level of Housing Quality Standards (HQS), the project must be inspected for conformance with Section 8 HQS prior to the execution of the Project-Based Voucher Contract (the Contract) with the project owner or designee. HACSD may not execute the HAP contract until the units fully comply with HQS.

Corrections to HACSD identified deficiencies, including those noted on either the Housing Quality Standards or the independent inspection, must be completed prior to execution of the contract.

Individual units must be inspected by HACSD prior to approval of a tenant lease and the commencement of project-based assistance for that unit.

At least once every 24 months during the term of the HAP contract, an inspection of the units must take place in accordance with all current and applicable program regulations.

Project must be maintained in conformance with Section 8 (HQS).

Occupants of assisted units may be required to make repairs to correct violations in HQS that were caused by tenant abuse or neglect. Failure to correct tenant caused failed items can result in program termination for not meeting HQS standards. For owner failed inspection items, an abatement will be enforced until the unit passes inspection. It is not necessary to send out a transfer packet to the tenant.

### **Assistance**

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the 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.

## **Initial, Annual and Ongoing Activities**

### **All Families:**

Annual eligibility determination will be made of all families in units receiving project-based assistance.

Annual review will be made of the progress families are achieving in meeting educational, job training, and/or employment goals established at the time of initial eligibility.

If funding permits, families may request tenant-based Housing Choice Vouchers after one year from the date that the lease is fully executed. At that time, the next available tenant-based Housing Choice Vouchers or other assistance, such as HOME tenant-based rental assistance, will be offered to eligible families upon the discretion of the HACSD.

In cases where, after initial tenancy, the family is occupying a wrong-sized unit based on the HACSD's subsidy standards or a unit that has accessibility features not required by the family and the unit is needed by a family that requires this accessibility feature, the HACSD will promptly notify the owner and the family of this determination. HACSD will offer the family continued assistance based 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. Rent adjustments to the owner may be processed once a year, provided the new rent is rent reasonable and the owner gives at least a 60-day advance notice to the tenant(s) and the HACSD. No special rent adjustments will be allowed.

### **Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the HACSD will follow VAWA policies as outlined in Chapter 1 of this administrative

plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA.

HUD requires that the HACSD include policies that address when a victim 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, HACSD will provide several options for continued assistance.

HACSD will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the HACSD has PBV units. HACSD will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the HACSD's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. HACSD has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process.

## **SPECIAL CLAIMS**

Some HACSD programs, such as Moderate Rehabilitation (Mod Rehab), may in some instances allow owners to make "special claims" for damages, unpaid rent, and vacancy loss. Except for project-based assistance, the Housing Choice Voucher Program does not have a "special claims" provision.

Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The HACSD establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

- If vacancy loss is claimed, the HACSD will ascertain whether or not the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the lease was terminated.

The HACSD will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse the HACSD for claims paid to the owner.

### **UNPAID RENT**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP contract.

Separate agreements are not considered a tenant obligation under the lease and the HACSD will not reimburse the owner for any claims under these agreements.

### **VACANCY LOSS**

In some special programs, vacancy loss may be paid if the move was in violation of the notice requirements in the lease, or the result of an eviction. However, project-based Housing Choice Vouchers have vacancy loss provisions unique to the individual contracts with the owners.

In order to claim vacancy loss, the unit must be available for lease and the landlord must:

- Notify the HACSD within 48 hours, excluding weekends and holidays, upon learning of the vacancy, or prospective vacancy; and

- Pursue all possible activities to fill the vacancy, including, but not limited to:

- Contacting applicants on the owner's waiting list, if any;

- Seeking eligible applicants by listing the unit with the HACSD;

- Advertising the availability of the unit; and

- Not rejecting potentially eligible applicants except for good cause.

In the event that a unit becomes vacant because of the death of the tenant, the HACSD will permit the owner to keep the HAP for the month in which the tenant died.

If the tenant moves *after* the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

To ensure valid claim processing, the HACSD will conduct a thorough move-in inspection noting "conditions" as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and tenant.

### **MOVE-OUT AND CLOSE-OUT INSPECTIONS**

The Housing Choice Voucher Program has no damage claim provision.

For older voucher contracts and other special programs that have a damage claim provision, the owner must notify the HACSD of the move-out and request an inspection within 48 hours of becoming aware of the damages. Otherwise, the owner cannot submit a claim for damages. If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

The owner and tenant will be notified of the date and time of the inspection. If the owner or his authorized agent is not present, the move-out inspection will not be rescheduled.

The HACSD will not conduct a move-out inspection upon a tenant's request, if the owner does not also request an inspection.

A damage claim will not be approved *unless* the move-out inspection is requested and completed prior to any work being done.

In the event that the HACSD is unable to inspect within five days, the owner will be permitted to use date-stamped photographs to substantiate the claim.

### **PROCESSING CLAIMS**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum security deposit which the owner could have collected under the program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts that the family owes under the lease, the owner may request reimbursement from the HACSD up to the limits for each program.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected will be deducted from the vacancy loss claim.

The HACSD reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending (a notice is sent to last known address.) The notification will state the preliminarily determined amount, the type of claim, and describe the procedure for contesting the claim.

The HACSD will offer the family 14 days to contest the claim. If the family disputes the claim, the HACSD will schedule an informal meeting with the owner and tenant in order to resolve the differences.

If the tenant fails to attend the meeting, the HACSD will proceed with its original determination.

Meetings will not be rescheduled if neither the owner, nor the tenant attends.

Meetings will not be rescheduled if either the owner or the tenant fails to attend.

After a determination has been made, the HACSD will notify the family in writing of the decision. If it has been determined that the family owes money, the HACSD will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse the HACSD as required.

### **OTHER REQUIREMENTS FOR CLAIMS PROCESSING**

The HACSD will require proof that the owner has complied with state and local laws applicable to security deposits before making payment on any claim.

All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

Costs of filing eviction to remove the tenant or any other legal fees may not be reimbursed.

No claims will be paid for a unit that is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 30 days of the date the owner learned of the move-out.

## **VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH)**

### **BACKGROUND**

The HUD-VASH program combines HUD HCV rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA) at its medical centers and in the community. Ongoing VA case management, health, and other supportive services will be made available to homeless veterans at Veterans Affairs Medical Center supportive services across the nation.

The HUD-VASH HCV program will be administered in accordance with the HCV tenant-based rental assistance regulations set forth at 24 CFR part 982. However, the Act allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program to be necessary for the effective delivery and administration of the HUD-VASH program. In addition, the HACSD may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

HACSD will 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 social security number (SSN) and for proof-of-age purposes for veterans applying for or participating in the HUD-VASH program. These documents will be temporarily accepted in lieu of birth certificates or other required documentation. A DD-214 will temporarily be accepted for a veteran as proof of legal residency but the veteran must still provide verification of citizenship or eligible immigration by the first annual reexamination if the DD-214 does not list citizenship information or place of birth. Other household members will still need to provide verification of citizenship or eligible immigration status at time of application. Household members who cannot demonstrate legal residency may elect not to contend their status. If photo identification is required, VA issued photo identification cards will be accepted by HACSD in lieu of another type of government-issued photo identification. These cards may also be used to verify SSNs and date of birth.

Income-targeting requirements of section 16(b) of the 1937 Act, as well as 24 CFR 982.201(b)(2), do not apply for HUD-VASH families. The HACSD will serve homeless veterans at a variety of income levels, including extremely low (30% AMI) very low (50% AMI), and low-income (80% AMI). The HACSD will not deny admission to a HUD-VASH eligible family with zero income and will consider hardship circumstances before charging a minimum rent. In accordance with HUD guidelines (Federal Register Notice 5/6/2008), HACSD will only prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program or if the household income exceeds 80% AMI.

HUD-VASH families will be permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, 24 CFR 982.352(a)(5), which prohibits units on the physical grounds of a medical, mental, or similar public or private institution, is waived for that purpose only.

To expedite the leasing process, HACSD may pre-inspect available units that veterans may be interested in leasing, in order to maintain a pool of eligible units. If a HUD-VASH family selects a unit that passed a 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, provided that it meets all other conditions under 24 CFR Section 982.305. However, the veteran must be free to select his/her unit and cannot be steered to these units.

HUD-VASH payment standards of 110% of HUD's current Small Area Fair Market Rent (SAFMR) will be applied to one-, two-, and three-bedroom units. HUD-VASH voucher holders can also request up to 120% of the SAFMR as a reasonable accommodation.

The HACSD has adopted the published HUD-VASH guidelines and will continue to develop separate policy documents for the HUD-VASH program as needed.

### **Voucher**

The initial term of VASH vouchers will be a minimum of 120 days in length.

### **VASH Case Management Requirements**

As a condition of HCV rental assistance, a HUD-VASH eligible family must receive case management services from the local VAMC as published in the Federal Register, Vol. 77, No. 57, dated Friday, March 23, 2012. Therefore, a HUD-VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC. However, a VAMC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such case, and at its option, the HACSD may offer the family continued HCV assistance through one of its regular vouchers, to make available the HUD-VASH voucher for another eligible family referred by the VAMC. If the HACSD has no available vouchers, the family will retain its HUD-VASH voucher until such time as the HACSD has an available voucher for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

### **PORTABILITY- WHILE RECEIVING VA CASE MANAGEMENT**

A HUD-VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. The VA must always be

consulted prior to a move to ensure that case management will continue to be provided. If the receiving PHA does not have a HUD-VASH program, they must bill the initial PHA. If the receiving PHA does have a HUD-VASH program, they may absorb the family or bill the initial PHA. A HUD-VASH family can move outside of the VAMC's catchment area if the referring VAMC confirms that the new VAMC has an available case management slot. The receiving PHA must have a HUD-VASH program and the HUD-VASH family must be absorbed.

### **PORTABILITY- WHEN VA CASE MANAGEMENT IS NO LONGER REQUIRED**

If a HUD-VASH family wishes to move under portability and the Veteran no longer requires case management, they do not need to move to a community in which case management can be provided. The receiving PHA does not need to be a HUD-VASH PHA, and they may choose to bill the initial PHA or absorb the Veteran with a regular voucher. If they choose to bill the initial PHA, they must enter/maintain "VASH" on line 2n of form HUD-50058.

### **PROJECT-BASED VOUCHER PROGRAM**

The HACSD reserves the right to utilize project-based vouchers to address the specific housing needs of HUD-VASH families. The HACSD may apply for specific HUD funding for project-based HUD-VASH vouchers or set aside existing HUD-VASH vouchers in accordance with PBV program regulations [24 CFR part 983].

### **HOPWA PROGRAM**

[24 CFR 574]

The Housing Opportunities for Persons with AIDS (HOPWA) is a federally funded program designed to provide housing assistance and related supportive services for low-income persons living with HIV/AIDS and their families. HACSD administers a Tenant-Based Rental Assistance (TBRA) program for up to 100 voucher holders. The TBRA program is one component of an overall continuum of care designed to assist these individuals and is intended to be a temporary program until participants can transition to the regular Section 8 Housing Choice Voucher program. The program is administered by the HACSD with guidance and input from the HIV Housing Committee and the City of San Diego. Participants may reside anywhere in San Diego County.

The HOPWA program is administered in accordance with the Section 8 Housing Choice Voucher tenant-based rental assistance regulations set forth in 24 CFR part 982 unless otherwise indicated in this section or in 24 CFR part 574. The participants for this program are selected off of the HOPWA waiting list based on established priorities and date and time of application. Eligibility is contingent on the head of household, spouse, or sole member being a person with HIV/AIDS. Priority will be given to persons as

described in the County of San Diego Housing and Community Development Services' HOPWA Tier Policy, as may be amended from time to time. The household income must not exceed 80% of the Area Median Income (AMI) for admission and participants are never allowed to pay more than 30% of their monthly adjusted income towards rent. In order to keep a participant at or below the 30% maximum rent level, the Fair Market Rent (FMR) established by HUD is used as the payment standard. Additionally, up to 20% of the participants may be allowed a payment standard of 110% of the FMR. Participants are also not subject to a minimum rent requirement and participating units must be inspected annually.

Criminal prohibitions do not apply at admission, but once admitted HOPWA TBRA participants will follow the same requirements as HCV participants regarding criminal violations as outlined in this Plan.

Subsidy standards are as follows: one bedroom is assigned for the head of household and spouse/co-head and an additional bedroom is awarded for each additional two household members. All other guidelines outlined in this Plan regarding subsidy standards will apply.

Housing Quality Standards (HQS) inspections will be conducted on all HOPWA TBRA units at initial lease-up and annually thereafter. HOPWA units are not eligible for biennial inspections.

In regards to a surviving member or members of a family who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death, housing assistance and supportive services under the HOPWA program shall continue for a grace period of up to a year in the assisted unit while the family transitions off of the program. The assistance will be terminated at either the end of the grace period or upon move-out of the assisted unit if the household moves prior to the end of the grace period.



# GLOSSARY

## TERMS AND ACRONYMS

**ABSORPTION.** A process in portability (under subpart H of 24 CFR 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA's consolidated ACC.

**ACCESSIBLE.** The facility or portion of the facility can be approached, entered, and used by individuals with physical disabilities.

**ADMINISTRATIVE PLAN.** The HUD-required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

**ACC.** Annual Contributions Contract

**ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE").** Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADA.** Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

**ADJUSTED INCOME.** Annual income of all family members residing in the unit, after all HUD allowable deductions has been made.

**ADMINISTRATIVE FEE.** Fee paid by HUD to the PHA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (Formerly "Operating Reserve").** Account established by PHA to store excess administrative fee income. Funds must be used for housing purposes. The Administrative Fee Reserves from FY 2004 and FY 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**ADMISSION.** The point when a family becomes a participant in the program and the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**AMORTIZATION PAYMENT.** The monthly principal and interest payment amount intended to fully repay a mortgage within the specified term of the loan. A mortgage is debt acquired when purchasing a home.

**ANNUAL BUDGET AUTHORITY.** The maximum annual payment by HUD to a PHA for a funding increment.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC).** A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

**ANNUAL INCOME.** The anticipated total amount of compensation a family will receive from all wages and public assistance programs. The amount is estimated for a 12-month period following the date of determination of income. Calculations are made in accordance with regulations.

**ANNUAL INCOME AFTER ALLOWANCES.** The Annual Income (described above) less the HUD-approved allowances.

**APPLICANT.** (or 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 SAFMR.

**"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.)

**ASSISTED TENANT.** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

**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. For example, auxiliary aids for persons with impaired vision may include: readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids for persons with impaired hearing may include: telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, note takers, written materials, and other similar services and devices.

**BLOOD RELATIVE.** Blood relatives would include: parents, children, grandparents, grandchildren, brothers, sisters, aunts, uncles, nephews, nieces, and first cousins.

**BUDGET AUTHORITY.** An amount authorized and appropriated by Congress for payments to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**CDBG.** Community Development Block Grant

**CFR.** Code of Federal Regulations. Commonly referred to as "the regulations." The CFR is the compilation of Federal rules first published in the Federal Register to define and implement a statute.

**CHILD CARE EXPENSES.** Amount anticipated to be paid on child care during a 12 month period. Income is calculated by families caring for minors under 13 years of age and child care is necessary to enable an adult family member to be employed, actively seek work, and/or to further his/her education.

**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 never has a co-head and a spouse; a co-head is never a dependent). The co-head must have the legal capacity to enter into a lease.

**COMMON SPACE.** Space available for use by the assisted family and other occupants of a shared housing 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.

**CONGREGATE HOUSING.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

**CONSENT FORM.** Any consent form approved by HUD to be signed by applicants and participants to obtain income information from third parties. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility.

**CONTIGUOUS MSA.** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**CONTINUOUSLY ASSISTED.** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program. This includes families in Public Housing.

**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 24 CFR 982.619. A cooperative also is defined as a dwelling unit owned and/or shared by a group of individuals who have individual sleeping quarters and share common facilities such as kitchen, living room and some bathrooms.

**COVERED FAMILIES.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**DATING VIOLENCE.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such relationship shall be determined based on a consideration of the following factors: length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.

**DEPENDENT.** A member of the family household (excluding foster children) other than the family head or spouse, or co-head, who is under 18 years of age or is a disabled person or handicapped person, or is a full-time student 18 years of age or over.

**DISABILITY ASSISTANCE EXPENSE.** Anticipated costs for care attendants and auxiliary apparatus for disabled family members to enable a family member (including the disabled family member) to work.

**DISABLED FAMILY.** A family whose head (including co-head), spouse or sole member is a person with a disability. The term "disabled family" may include: two or more persons with disabilities living together, or one or more persons with disabilities living with one or more persons determined to be essential to the care or well-being of the person or persons with disabilities (live-in aides). A disabled family may include persons with disabilities who are elderly.

**DISABLED PERSON.** See Person with Disabilities.

**DISPLACED PERSON/FAMILY.** A person or family 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 under 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.** The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance; includes medical marijuana (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

**DRUG TRAFFICKING.** The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance; includes medical marijuana (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**ECONOMIC SELF-SUFFICIENCY PROGRAM.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (b).

**ELDERLY FAMILY.** A family whose head (including co-head), spouse or sole member is a person who is at least 62 years of age. The term "elderly family" includes 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. An elderly family may include elderly persons with disabilities, and non-elderly family members.

**ELDERLY PERSON.** A person who is at least 62 years old.

**ELIGIBILITY INCOME.** May 10, 1984, regulations deleted eligibility income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY.** (Family). A family that is income eligible and meets other requirements of the program.

**EMPLOYER IDENTIFICATION NUMBER (EIN)** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**EXCEPTION RENT.** In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

**EXCESS MEDICAL EXPENSES.** Any medical expenses incurred by elderly or disabled families in excess of 3% of annual income which are not reimbursable from any other source.

**EXTREMELY LOW-INCOME FAMILY.** A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of median income if HUD finds such variations are necessary due to unusually high or low family incomes.

**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.

**FHA.** Federal Housing Administration

**FAIR HOUSING ACT.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

**FAIR MARKET RENT (FMR).** The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

**FAMILY.** "Family" includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person,  
near-elderly person or any other single person; or

(2) A group of persons residing together and such group includes, but is not limited to:

(i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);

(ii) An elderly family;

(iii) A near-elderly family;

(iv) A disabled family;

(v) A displaced family; and the remaining member of a tenant family;

("Family" can be further defined by the PHA).

**FAMILY OF VETERAN OR SERVICE PERSON.** A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced, provided the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized, provided that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY RENT TO OWNER.** In the voucher program, the portion of the rent to owner paid by the family.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM).** The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY SHARE.** The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

**FEDERAL AGENCY.** A department of the executive branch of the Federal Government.

**FMR/EXCEPTION RENT.** The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program, the PHA adopts a payment standard schedule that is within 90% to 110% of the SAFMR for each bedroom size.

**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).

**FULL-TIME EMPLOYMENT.** The full-time employment history requirement is met if the employee has been working during the history period an average of the minimum number of required number of hours.

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

**GROUP HOME.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to 12 persons who are elderly or persons with disabilities (including any live-in aide).

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HACSD.** Housing Authority of the County of San Diego

**HOMELESS.** For the purpose of the Homeless preference for selection off of the HACSD waiting list, "homeless," "homeless individual," "homeless person," or "homeless family" is defined as, per HUD's Definition of Homeless for the Continuum of Care (CoC) Program (previously Shelter Plus Care): An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (1) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or (2) an individual or family living in a supervised publicly or privately operated shelter designed to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals). Individuals and families coming from transitional housing must have originally come from the streets or emergency shelters; or (3) An individual living in a safe haven; or (4) an individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering the institution. Exclusions: a person who is imprisoned or otherwise detained pursuant to an Act of the Congress or State law is not considered "homeless" under the above definition.

**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. ("PHA" and "HA" mean the same thing.)

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT.** The monthly assistance payment by a PHA. The total assistance payment consists of:

A payment to the owner for rent to owner under the family's lease.

An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

**HOUSING ASSISTANCE PAYMENTS CONTRACT.** (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING ASSISTANCE PLAN.** A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING QUALITY STANDARDS (HQS).** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD.** The Department of Housing and Urban Development.

**HUD REQUIREMENTS.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations, Federal Register notices, or other binding program directives.

**IMMEDIATE FAMILY MEMBER.** A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in position or place of a parent; or any other person living in the household of that person and related to that person by blood or marriage. Blood relatives would include: parents, children, grandparents, grandchildren, brothers, sisters, aunts, uncles, nephews, nieces, and first cousins.

**IMPUTED ASSET.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**IMPUTED INCOME.** Average passbook rate x total cash value of assets. Calculation used when assets exceed \$5,000. HUD no longer provides an interest rate for imputed asset income but the PHA must establish a passbook rate within .75 percent of a national average.

**IMPUTED WELFARE INCOME.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and, therefore, reflected in the family's rental contribution.

**INCOME.** Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**INCOME FOR ELIGIBILITY.** Annual Income.

**INDIAN.** Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

**INITIAL PHA.** In portability, the term refers to both:

A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

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 REDUCTION SUBSIDIES.** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**JURISDICTION.** The area in which the PHA has authority under State and local law to administer the program.

**LANDLORD.** This term means 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.

**LARGE VERY LOW INCOME FAMILY.** Prior to the 1982 regulations, this meant a very low-income family which included six or more minors. This term is no longer used.

**LEASE.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

**LEASE ADDENDUM.** For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

**LIVE-IN AIDE.** A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

**LOCAL PREFERENCE.** A preference used by the PHA to select among applicant families.

**LOW-INCOME FAMILY.** A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low-income families.

**MAJOR LIFE ACTIVITIES.** The term is related to an individual with handicaps/persons with disabilities, and refers to functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**MANUFACTURED HOME.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets HQS. A special housing type. See 24 CFR 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 24 CFR 982.622 to 982.624

**MARKET RENT.** The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

**MEDICAL EXPENSES.** Those total medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

**MERGER DATE.** October 1, 1999 was the date the Voucher and Certificate programs began to be converted to the Housing Choice Voucher program.

**MINOR.** A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MIXED FAMILY.** A family with citizens and those with eligible immigration status and without citizens and those with eligible immigration status as defined in 24 CFR 5.504(b)(3)

**MODERATE REHABILITATION PROGRAM.** A project-based rental assistance program in which private rental property owners receive loans to rehabilitate their rental units and then set aside these units under low-term contracts to provide assisted rental housing for low-income families.

**MONTHLY ADJUSTED INCOME.** 1/12 of the Annual Income after Allowances or Adjusted Income.

**MONTHLY INCOME.** 1/12 of the 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, co-head, or sole member is a person who is at least 50 years of age but below the age of 62. The family may include: 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.

**NEGATIVE RENT.** Now called Utility Reimbursement. A negative tenant rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS.** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition. A trust fund that is not revocable by or under the control of any member of the assisted family is not considered a net asset, although regular monetary distributions from the trust to the assisted family is counted in annual income.

**NET FAMILY CONTRIBUTION.** Former name for Tenant Rent.

**NON-CITIZEN.** A person who is neither a citizen, nor a national of the United States.

**NOTICE OF FUNDING AVAILABILITY (NOFA).** The Federal Register document that invites applications and describes eligibility criteria for funding that HUD distributes by competitive process.

**OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards]** Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OFFICE OF GENERAL COUNSEL (OGC).** The General Counsel of HUD.

**OVER-FMR TENANCY (OFTO).** In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit. This program no longer exists.

**OTHER CRIMINAL ACTIVITY.** Criminal acts which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

**OWNER.** Any persons or entity having the legal right to lease or sublease a unit to a participant.

**PARTICIPANT.** A family that has been admitted to the PHA's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (First day of initial lease term).

**PAYMENT STANDARD.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**PERSONS WITH DISABILITIES.** A person who: (i) Has a disability, as defined in 42 U.S.C. 423;(ii) 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. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence. 24 C.F.R. 5.403.

**For purposes of reasonable accommodation and program accessibility** persons with disabilities means an individual with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. 24 C.F.R. 8.3.

**PHA PLAN.** The annual plan and the five-year plan as adopted by the PHA and approved by HUD in accordance with 24 CFR 903.

**PORTABILITY.** Renting a dwelling unit with Section 8 tenant-based assistance 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.** Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

**PROGRAM.** The Section 8 tenant-based assistance program under 24 CFR Part 982.

**PROGRAM RECEIPTS.** HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the 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).** PHA includes any State, county, municipality or other governmental entity or public body that is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

**QC.** Quality Control

**QUALITY FILE REVIEW.** An annual sample of files or records drawn in an unbiased manner and reviewed by a qualified PHA person, other than the person who performed the original work, to determine if the work documented in the records conforms to program requirements.

**REASONABLE RENT.** A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged 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. There are annual and interim recertifications.

**REGULAR TENANCY.** In the pre-merger certificate program: A tenancy other than an over-FMR tenancy. This program no longer exists

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassisted.

**RENT TO OWNER.** The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities for which the owner is required to provide and pay.

**RESIDENCY PREFERENCE.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

**RESIDENCY PREFERENCE AREA.** The specified area where families must reside to qualify for a residency preference.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or well-being. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

**RESPONSIBLE ENTITY.** For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, 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.

**RFTA.** Request for Tenancy Approval

**SAFE HAVEN.** Provide private or semi-private long- term housing for homeless people with severe mental illness and are limited to serving no more than 25 people within a facility.

**SECRETARY.** The Secretary of Housing and Urban Development.

**SECTION 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

**SECURITY DEPOSIT.** A dollar amount to be paid by a tenant to a landlord and to be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SERVICE PERSON.** A person in the active military or naval service (including the active reserve) of the United States.

**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. This type of housing is considered a special housing type.

**SINGLE ROOM OCCUPANCY (SRO).** A unit that contains no sanitary facilities or food preparation facilities in the unit, or contains either but not both types of facilities. This type of housing is considered a special housing type.

**SINGLE PERSON.** A person living alone or intending to live alone.

**SMALL AREA FAIR MARKET RENT (SAFMR).** SAFMRs are FMRs calculated for ZIP Codes within Metropolitan Areas. Small Area FMRs are required to be used to set Section 8 Housing Choice Voucher payment standards in areas designated by HUD.

**SPECIAL ADMISSION.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**SPECIAL HOUSING TYPES.** See Subpart M of 24 CFR 982, which 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 husband or wife of the head of the household.

**SUBSIDIZED PROJECT.** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

A Public Housing Project.

**SUBSIDY STANDARDS.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**SUBSTANDARD UNIT.** Substandard housing is defined by HUD for use as a federal preference.

**SUSPENSION/TOLLING.** Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

**TENANCY ADDENDUM.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**TENANT.** The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

**TENANT RENT.** The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

**TOTAL TENANT PAYMENT (TTP).** The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

**UNIT.** Residential space for the private use of a family.

**UNUSUAL EXPENSES.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**U.S. HOUSING ACT 1937.** The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

**USCIS.** United States Citizen and Immigration Services

**UTILITIES.** Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, stove, trash collection and sewage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCE.** If the cost of utilities for water, sewer, gas, and electricity and including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of 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 healthy living environment.

**UTILITY REIMBURSEMENT.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

**UTILITY REIMBURSEMENT PAYMENT.** In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VACANCY LOSS PAYMENTS.** (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**VASH.** Veterans Affairs Supportive Housing

**VERY LARGE LOWER-INCOME FAMILY.** Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

**VERY LOW INCOME FAMILY.** A Lower-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 pre-merger certificate and voucher programs.

**VETERAN.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released under conditions other than dishonorable.

**VAWA.** Violence Against Women Act

**VIOLENT CRIMINAL ACTIVITY.** Violent criminal activity is any criminal activity that has as one of its elements, the use, attempted use, or threatened use of physical force substantial enough to cause, or be likely to cause, serious bodily injury or property damage.

**VOUCHER (rental voucher).** A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**VOUCHER HOLDER.** A family holding an active voucher that has not yet expired (search time).

**VOUCHER PROGRAM.** The Housing Choice Voucher program.

**WAITING LIST.** A list of families organized according to HUD regulations and PHA policy waiting for a subsidy to become available.

**WAITING LIST ADMISSION.** An admission from the PHA waiting list.

**WELFARE ASSISTANCE.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the Family Self-Sufficiency 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 RENT.** This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

**WELFARE-TO-WORK (WTW) FAMILIES.** Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

## **GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE**

**CHILD.** A member of the family other than the family head or spouse who is under 18 years of age.

**CITIZEN.** A citizen or national of the United States.

**EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS.** The documents which must be submitted as evidence of citizenship or eligible immigration status.

**HEAD OF HOUSEHOLD.** The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

**HUD.** Department of Housing and Urban Development.

**MIXED FAMILY.** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

**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.

**NONCITIZEN.** A person who is neither a citizen nor national of the United States.

**PHA.** A housing authority that operates Public Housing.

**RESPONSIBLE ENTITY.** The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

**SECTION 214.** Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

**SECTION 504 OF THE REHABILITATION ACT OF 1973.** As amended, states that no otherwise qualified individual with handicaps shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from HUD. Compliance requires accessibility by physically handicapped persons.

**SPOUSE.** Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing program.

**USCIS.** U.S. Citizenship and Immigration Services

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