HOUSING AUTHORITY
OF THE COUNTY OF SAN DIEGO

Section 8 Housing Choice Voucher Program

July 2020

Administrative Plan

COUNTY OF SAN DIEGO

HEALTH AND HUMAN SERVICES AGENCY

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INTRODUCTION

AUTHORITIES FOR POLICIES IN ADMINISTRATIVE PLAN

Authority for the PHA policies is derived from many sources. Primary among these sources are federal regulations and guidance issued by HUD. State law also directs PHA policy. State law will be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop PHA policy as long as it does not conflict with federal requirements or prohibitions.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, PHAs must follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

Chapter 1 - OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the County of San Diego (HACSD) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. HACSD is not a federal department or agency, but is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. HACSD enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. HACSD must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about HACSD and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

> ***Part I***: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.
>
> ***Part II***: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.
>
> ***Part III***: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE PHA

1-I.A. OVERVIEW

The 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.

1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

The officials of HACSD are known as the Board of Commissioners, which are appointed in accordance with state housing law. The San Diego County Board of Supervisors and two tenant commissioners acts as the Board of Commissioners of HACSD for establishing policies under which HACSD conducts business, ensuring that policies are followed by HACSD staff and ensuring that HACSD is successful in its mission. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of HACSD are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the HACSD.

The principal staff member of the HACSD is the executive director (ED). The executive director is directly responsible for carrying out the policies established by the board and is delegated the responsibility for hiring, training and supervising HACSD staff in order to manage the day-to-day operations of the HACSD. The executive director is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

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.

1-I.C. PHA MISSION:

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

The HACSD Mission Statement:

To provide affordable housing opportunities to low-income and other vulnerable families while promoting a region that is healthy, safe and thriving.

HUD Mission Statement:

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

1-I.D. THE PHA'S PROGRAMS

The following programs are included under this administrative plan:

HACSD Policy

The HACSD's administrative plan is applicable to the operation of the Housing Choice Voucher program. 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
- Mainstream
- Brining Families Home (BFH)
- Family Unification Program (FUP)
- Foster Youth Initiative Tenant Protection Vouchers (FYI-TPV)
- Housing Opportunities for Persons with AIDS (HOPWA)
- 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 or other funding sources. The HACSD Administrative Plan policies and procedures constitute the policies and practices for these special housing assistance programs.

1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

HACSD Policy

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.

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. HACSD is afforded choices in the operation of the program which are included in HACSD's administrative plan, a document approved by HACSD's Board of Commissioners.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the HACSD's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, HACSD issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, HACSD will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. HACSD will continue to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

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.

1-II.B. APPLICABLE REGULATIONS

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 Part 985: The Section 8 Management Assessment Program (SEMAP)

PART III: THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

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 PHA'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 PHA agency plan, and is available for public review as required by CFR 24 Part 903.

The PHA 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 PHA 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.

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

HACSD Policy

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.

Temporary exceptions to the policies cited in this Plan may be authorized to mitigate jurisdiction-wide health and safety conditions or as directed or authorized by HUD. The HACSD may amend this Plan or may establish separate policy documents to comply with federal, state and local mandates, such as with the 2020 COVID-19 public health orders. [HACSD Adopted CARES Act HUD Waivers; CPD HOME/HOPWA Waivers; HACSD COVID-19 Temporary Exception Policy].

1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]

The HUD regulations outline the policies that must be included in the administrative plan. The PHA's administrative plan must cover the PHA's policies as detailed in 24 CFR 982.54.

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

- *Mandatory policies*: those driven by legislation, regulations, current handbooks, notices, and legal opinions,
- *Optional, non-binding guidance:* including guidebooks, notices that have expired and recommendations from individual HUD staff, and

- *Discretionary Policies:* those pertaining to matters for which HUD allows the PHA discretion to establish local policies.

1-III.C. ORGANIZATION OF THE PLAN

The plan is organized to provide information about particular areas of operation. Sections referencing PHA responsibilities generally reflect HUD mandated policy and sections referencing HACSD generally reflect discretionary policy.

1-III.D. UPDATING AND REVISING THE PLAN

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations.

HACSD Policy

The HACSD will review and update the plan at least once per year, and more often if needed, to reflect changes in regulations, HACSD operations, or when needed to ensure staff consistency in operation.

Chapter 2- FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's Housing Choice Voucher (HCV) operations.

This chapter describes HUD regulations and HACSD's policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of HACSD regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the Housing Choice Voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of HACSD to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the Federal Register.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status.

The PHA 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 including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

<u>HACSD Policy</u>

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 HACSD will utilize such services as necessary for telephonic communication with hearing impaired persons, such as the California Relay Service.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination based on other factors.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin.

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The PHA will not discriminate on the basis of marital status, gender identity, sexual orientation, or any other state or federal protected class [FR Notice 02/03/12].

<u>HACSD Policy</u>

HACSD does not identify any additional protected classes.

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Subject anyone to sexual harassment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class

- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, HACSD will provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints (24 CFR 982.304)

Applicants or participants who believe that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA.

The PHA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, HACSD will provide the applicant or participant with information about how to file a discrimination complaint.

Upon receipt of a housing discrimination complaint, PHA will:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]

<u>HACSD Policy</u>

Applicants or participants who believe that they have been subject to unlawful discrimination by PHA staff may notify the HACSD either orally or in writing.

The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

Applicants or participants who believe that they have been subject to unlawful discrimination by Owners may notify the HACSD or local fair housing provider. For complaints received by the HACSD, the HACSD will provide information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will keep a record of all complaints, investigations, notices, and corrective actions.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

HACSD 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]

HACSD will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by HACSD, by including the following language:

"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

A specific name and phone number of designated staff will be provided to process requests for accommodation.

The HACSD will display posters and other housing information and signage in locations throughout the HACSD's office in such a manner as to be easily readable from a wheelchair.

2-II.B. 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.

Types of Reasonable Accommodations

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA's range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

HACSD Policy

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.

2-II.D. VERIFICATION OF DISABILITY

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.

Before providing an accommodation, the PHA 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 PHA's programs and services.

If a participant's disability is obvious or otherwise known to the PHA, 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 PHA, the PHA 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 PHA will follow the verification policies provided in Chapter 7. 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 PHA may only request information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- The PHA will request the verifying party to state whether the accommodation will be needed on a permanent or temporary basis.

  <u>HACSD Policy</u>

  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 11.
- 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]

HACSD Policy

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.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

The 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.

HACSD Policy

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.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

HACSD Policy

To meet the needs of persons with hearing impairments, the PHA will make appropriate accommodations available upon request.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request, utilizing available technology as

agreed upon by individuals requesting the accommodation. When visual aids are used in public meetings or presentations, or in meetings with HACSD staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility. This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.

- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally funded housing programs.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

<u>HACSD Policy</u>

[24 CFR 982.204, 982.552(c)]

Mitigating Circumstances for Applicants/Participant with Disabilities

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 HACSD 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).

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, HACSD will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

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. Responses received as of the date of this Plan are consistent with data previously collected. LEP active program participants in all language groups are above the 5% "threshold" but below 1,000 persons in any language group. The HACSD will continue to analyze the results periodically 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.

2-III.B. ORAL INTERPRETATION

HACSD will offer competent interpretation services free of charge, upon request, to the LEP person.

HACSD Policy

HACSD will utilize a language line for telephone interpreter services.

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

HACSD will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

2-III.C. WRITTEN TRANSLATION

HACSD Policy

HACSD will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, HACSD does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

EXHIBIT 2-1: 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 or 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 life 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 PHA) 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:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

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 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 much 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 $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

Chapter 3- ELIGIBILITY

INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause HACSD to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

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.

3-I.B. FAMILY AND HOUSEHOLD

[24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

The terms family and household have different meanings in the HCV program.

Family

HACSD Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

The HACSD will include a registered domestic partnership, as recognized by state law, in the definition and all references to marriage outlined in this Plan.

Each family must identify the individuals to be included in the family at the time of application and must notify HACSD if the family's composition changes.

Qualifying Family

HACSD Policy

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.

Household

Household is a broader term that includes additional people who, with PHA permission, live in an assisted unit, such as live-in aides, foster children and foster adults.

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup [24 CFR 982.315; Notice PIH 2017-08]

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- 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. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-IX.D of this plan.)
- 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.

<u>HACSD Policy</u>

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.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the remaining member of a tenant family, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6- I.B, for the policy on “Caretakers for a Child.”

Authorized family members are eligible for remaining member status and the family’s voucher.

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.

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

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 cohead 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.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

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.

<u>HACSD Policy</u>

Spouse also includes a registered domestic partner, as defined by state law.

A co-head is an individual in the household who is equally responsible for the lease with the head of household. 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 means a family member, other than the head, spouse, or cohead, 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.

3-I.F. DEPENDENT [24 CFR 5.603]

A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides.

Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance as described in Chapter 6.

Joint Custody of Dependents

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.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB]

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent allowance, and (2) the earned income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

Elderly Persons

An elderly person is a person who is at least 62 years of age.

Near-Elderly Persons

A near-elderly person is a person who is at least 50 years of age but below the age of 62.

Elderly Family

An elderly family is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter.

These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA will make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

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.

3-I.J. GUESTS [24 CFR 5.100]

A guest is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

HACSD Policy

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.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term foster child is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income

of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

A family may include foster children/adults. 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.

HACSD Policy

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.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

Definitions of Temporarily and Permanently Absent [CFR 982.54(d)(10), 982.551]

The PHA must count all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the PHA 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.

HACSD Policy

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 or more consecutive months 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.

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.

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 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.

Absent Students

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.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

HACSD Policy

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.

Absent Head, Spouse, or Cohead

HACSD Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

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 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.

Family Members Permanently Confined for Medical Reasons [HCV GB]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB].

HACSD Policy

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.

Return of Permanently Absent Family Members

HACSD Policy

The family must request HACSD approval for the return of any adult family members that the HACSD previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-I.M. LIVE-IN AIDE

A live-in aide is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined by the HACSD to be essential to the care and well-

being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA 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 the family member with disabilities.

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not family members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

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

- 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).

HACSD Policy

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.

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

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to non-citizen rule requirements.

Live-in aides 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 HASCD 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 HACSD 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 HACSD 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.”

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the Federal Register. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

Definitions of the Income Limits [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

- A very low-income family
- A low-income family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

  HACSD Policy

  The HACSD will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the PHA's waiting list.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

HACSD Policy

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.

The HACSD has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low- income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration 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). At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance. 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. 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.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. Each family member must declare his/her status once. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family

member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. Non-Citizen students on student visas are ineligible members, even though in the country lawfully. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family. Non-Citizen Students sign a declaration, but they are listed on the statement of ineligible members.

Mixed Families [24 CFR 5.518]

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

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.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements [24 CFR 5.512(a)].

<u>HACSD Policy</u>

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.

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

When a PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice of the determination.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the HACSD will grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

HACSD Policy

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

For participants, the HACSD will verify the U.S. citizenship/eligible immigration status 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.

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six has been added to an applicant family within six months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

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.

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.

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 under penalties of perjury.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230; HCV GB]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

[24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR Notice 4/10/06, FR Notice 9/21/16].

Dependent Child

In the context of the student eligibility restrictions, 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 and foster adults are not considered dependents.

Independent Student

HACSD Policy

The HACSD will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy 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:

The individual is at least 24 years old by December 31 of the award year for which aid is sought

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence

The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes

The individual is a graduate or professional student

The individual is married

The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

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

- 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.

If the PHA determines that an individual meets the definition of a vulnerable youth such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.

The PHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education

The PHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education (see Exhibit 3-2).

Parents

HACSD Policy

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.).

Person with Disabilities

The PHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a person with disabilities (see Exhibit 3-1).

Veteran

HACSD Policy

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.

Vulnerable Youth

HACSD Policy

A vulnerable youth is an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

HACSD Policy

For any student who is subject to the 5.612 restrictions, the HACSD will:

Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section

Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

Determining Parental Income Eligibility

HACSD Policy

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of independent student in this section, the income of the parents 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 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 under penalty of perjury 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 or had contact.

In determining the income eligibility of the student's parents, the HACSD will use the income limits that apply where the parent with the highest income lives.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. This section will outline other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB]

Denial of assistance includes any of the following:

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

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction under portability. (See Chapter 10.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity, beginning on the date of the eviction. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

  <u>HACSD Policy</u>

  The HACSD may admit the applicant, 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.

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 PHA determines that any household member is currently engaged in the use of illegal drugs.

HACSD Policy

Currently engaged in is defined as any use of illegal drugs as of the time the full application is signed and dated. The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

HACSD Policy

In determining reasonable cause, the PHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

The HACSD will deny program 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 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 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 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.

Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing. This is a lifetime prohibition from program participation.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program. This is a lifetime prohibition from program participation.
  - 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.

HACSD Policy

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

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

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

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the PHA to deny assistance if the HACSD determines that any household member is currently engaged in or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

HACSD Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, 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 selected from the waiting list, the family will be denied assistance.

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

Violent criminal activity, defined by HUD as 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 [24 CFR 5.100].

Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the HACSD (including an HACSD employee or an HACSD contractor, subcontractor, or agent).

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, the family will denied assistance [982.553(a)]. Applicants are ineligible for assistance for three years from the later of the dates of the act, conviction, eviction, or termination of assistance.

Immediate vicinity means within a three-block radius of the premises.

Evidence of such criminal activity includes, but is not limited to:

Any conviction for drug-related or violent criminal activity within the past 5 years.

Records of arrests for drug-related or violent criminal activity within the past 5 years, although a record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

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

In making its decision to deny assistance, the HACSD will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HACSD may, on a case-by-case basis, decide not to deny assistance.

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.

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing.

Per the alternative requirements listed in the Federal Register notice dated December 29, 2014, PHAs are no longer permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [FR Notice 12/29/14].

HACSD Policy

The PHA will deny assistance to an applicant family if:

The family, including a live-in aide, does not sign and submit consent forms, including Form HUD-9886 or provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted from federally assisted housing for serious violations of the lease, in the last three years, beginning on the later of the dates of the eviction and ending on the date the family was selected from the waiting list.

Any member has violated an important family obligation, other than for illegal drug or criminal activities, within three years prior to the current eligibility review.

Any family member 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.

The family owes rent or other amounts to any PHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list. 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 has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

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.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

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.

HACSD Policy

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.

All screening and termination of assistance procedures will 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.

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

HACSD Policy

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. If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information center (NCIC).

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided.

HACSD Policy

Criminal background 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. [24 CFR 982.553(a)(2)(i)], [Notice PIH 2012-28].

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.

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of

the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

HACSD Policy

The HACSD will not conduct additional screening to determine an applicant family's suitability for tenancy. The HACSD will take into consideration any of the criteria for admission described in the chapter on eligibility factors. 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 to occupy the owner's unit. At or before HACSD approval of tenancy, the HACSD will inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

HACSD Policy

In accordance with HUD requirements, the HACSD will furnish prospective owners the family's current and prior address as shown in its records, and, if known to the HACSD, the associated landlord contact information.

The HACSD will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, *at the time of the initial HQS inspection or before*. The PHA will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

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 Program Coordinator, 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 Program Coordinator 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.

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

HACSD Policy

The HACSD will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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.

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.

Consideration of Circumstances [24 CFR 982.552(c)(2)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandatory (see Section 3-III.B).

HACSD Policy

Except in the cases for which denial 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:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property;

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

If the applicant does not dispute the accuracy or relevance of the criminal information or upon committee recommendation, a denial notice will be mailed to the applicant. An applicant will then be afforded the right to an Informal Review.

Removal of a Family Member's Name from the Application

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

HACSD Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to stay overnight, or reside in the assisted unit, receive mail or otherwise have an ongoing presence in the unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HACSD Policy

If denial of admission is based on behavior due to a disability, the HACSD will delay the denial 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.

When applicants are denied placement on the waiting list or program admission, 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).

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

HACSD Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

HACSD Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the HACSD will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the HACSD to dispute the information within that 10-day period, the HACSD will proceed with issuing the notice of denial of admission. A family that does not exercise their

right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault or stalking are contained in Section 3-III.G.

3-III.G. 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.

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

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

HACSD Policy

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 HACSD that their status as a victim is directly related to the grounds for the denial. The HACSD will request that the applicant provide enough information to the HACSD to allow the HACSD 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 PHA will include in its notice of denial the VAWA information described in section 16-IX.C of 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 PHA within 14 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

HACSD Policy

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 HACSD will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

Perpetrator Documentation

HACSD Policy

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.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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(d)(1)(A), which reads:
  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

  In 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 ability comparable to those of any gainful activity in which he 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 of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

In General

The term "developmental disability" means a severe, chronic disability of an individual that:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the individual attains age 22;

Is likely to continue indefinitely;

- Results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- 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 the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. 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. As used in this definition, the phrase:

(1) 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.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

- Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- 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 such impairment; or
- Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of "Institution of Higher Education" From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" means an educational institution in any State that

- Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- Is legally authorized within such State to provide a program of education beyond secondary education;
- Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
- Is a public or other nonprofit institution; and
- Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" also includes—

- Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
- A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students' persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of "Institution of Higher Education" From 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term ‘‘institution of higher education’’ for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution’s students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph

(1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4- year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term ''proprietary institution of higher education'' means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term ''proprietary institution of higher education'' also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term ''postsecondary vocational institution'' means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term ‘‘postsecondary vocational institution’’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

EXHIBIT 3-3: PROHIBITION PERIODS FOR SOME OFFENSES

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.	

Chapter 4 - APPLICATIONS, WAITING LIST AND TENANT SELECTION

Introduction

This chapter describes HUD and HACSD policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how HACSD will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how HACSD's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process HACSD will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide HACSD in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that HACSD has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the PHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application.

HACSD Policy

All persons who wish to apply for any of the HACSD's programs must submit pre-applications. 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 pre-applications and applications will be made accessible to persons with disabilities. Reasonable accommodations will be provided upon request.

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.

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.

When an interview is required, 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.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by the PHA.

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 has been selected from 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.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB]

The PHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people

with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The pre-application process will be fully accessible. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

PHAs are required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

HACSD Policy

The 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 part 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 part 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.

Ineligible for Placement on the Waiting List

HACSD Policy

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.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

The PHA's HCV waiting list is organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

HACSD Policy

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.

HUD requires HACSD to maintain a single waiting list for the HCV program. 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.

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.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

HACSD Policy

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 30 days prior to closing the list. The waiting list will not be closed if it has a discriminatory effect inconsistent with applicable civil rights laws.

Reopening the Waiting List

HACSD Policy

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.

4-II.D. FAMILY OUTREACH [HCV GB]

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB].

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

HACSD Policy

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.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

HACSD Policy

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.

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. Verbal authorization may be allowed as a one-time release of information. Ongoing release must be supported by a written authorization.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates, and the PHA determines that the family did not respond because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

HACSD Policy

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.

Removal from the Waiting List

HACSD Policy

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 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.

If at any time an applicant family is on the waiting list, the HACSD determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the HACSD has determined the family is not eligible for assistance, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the HACSD's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The PHA will maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

HACSD Policy

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)].

Special Admissions [24 CFR 982.203]

HACSD Policy

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 [24 CFR 982.204(e)]

HUD may award a funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

HACSD Policy

Participants admitted under targeted funding provisions must meet applicable verification and eligibility requirements. The HACSD administers the following types of targeted funding:

Mainstream*:* Mainstream vouchers are awarded to non-elderly disabled families on the HCV waiting list. HACSD applies local preferences in determining the order in which Mainstream vouchers are awarded to eligible families.

Veterans Affairs Supportive Housing (VASH): HUD allocated funding to provide Housing Choice Voucher (HCV) tenant-based rental assistance for qualifying homeless veterans referred by the Department of Veterans Affairs.

Foster Youth to Independence (FYI): PHAs without a current Family Unification Program (FUP) voucher allocation may request Tenant Protection Vouchers (TPV) to serve youth under the age of 25 with a history of child welfare involvement for up to 36 months.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

This section describes the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

Local Preferences [24 CFR 982.207; HCV GB]

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion.

HACSD Policy

HACSD has established local preferences that are consistent with the HACSD Plan.

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 four 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.

(4) Eligible non-elderly disabled applicants who, (a) have been referred by the County of San Diego, Health and Human Services Agency, and (b) who are homeless or who are exiting an institution or segregated setting as defined in Chapter 18-I.

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. Special

category (4) will have a maximum number of 138 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 under Category 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 into 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 listed above

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

HACSD Policy

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. 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.

Order of Selection

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

HACSD Policy

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.

Eligibility processing for a family selected from 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 from the waiting list.

A family change in circumstances after the date the family was selected from 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 or registered domestic partnership, court-awarded custody, return of minor or disabled children, or elderly or disabled dependents 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.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family [24 CFR 982.554(a)].

HACSD Policy

The HACSD will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview.

Preference Review

All preferences claimed on the pre-application, or while the family is on the waiting list, will be verified after selection from 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 as preference determines the family's placement on 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 full application will be mailed to the applicant. The applicant must complete the full application.

Pre-Screening

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. The pre-screening application serves as a preliminary evaluation of the eligibility of waiting list applications. In addition to the pre-screening application, the applicant may be asked to provide supporting documents, such as pay stubs and bank statements.

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 or registered domestic partnership, court-awarded custody, return of minor or disabled children to the household, or elderly or disabled dependents.

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.

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

Denials

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.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a PHA representative [HCV GB]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

HACSD Policy

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 in accordance with Chapter 3 of this Plan.

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.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.

The head of household or spouse/cohead must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the family representative does not provide the required documentation at the time of the interview, he or she will be required to provide it within 14 calendar days.

4-III.F. COMPLETING THE APPLICATION PROCESS

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

HACSD Policy

Eligibility processing for a family selected from 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 from 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 or registered domestic partnership, court-awarded custody, return of minor or disabled children, or elderly or disabled dependents to the 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.

Income Changes During the Application Process:

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 from 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 from 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

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.

If the HACSD determines that the family is ineligible, the HACSD will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).

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

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.

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The HACSD will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

If the HACSD determines that the family is eligible to receive assistance, the HACSD will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Chapter 5 – BRIEFINGS AND VOUCHER ISSUANCE

Introduction

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the PHA's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes the family to begin its search for a unit and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and HACSD policies related to these topics in two parts:

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses HACSD's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

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.

5-I.B. BRIEFING [24 CFR 982.301]

The PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

HACSD Policy

A full briefing will be conducted for eligible applicant families. Briefings will be conducted in group meetings.

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.

Families that attend group briefings and still need individual assistance will be referred to an appropriate HACSD staff person.

If the family includes a person with disabilities, the HACSD will make every reasonable effort to accommodate that person to ensure effective communication.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the HACSD will provide translation services in accordance with the HACSD's LEP plan (See Chapter 2). A family needing language services must provide a written or verbal request prior to the scheduled briefing. When necessary, the HACSD may reschedule an applicant's briefing to accommodate language services requests.

Notification and Attendance

HACSD Policy

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

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.

Oral Briefing [24 CFR 982.301(a)]

HACSD Policy

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.

Each briefing will provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;
- The advantages of areas that do not have a high concentration of low-income families; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

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

Briefing Packet [24 CFR 982.301(b)]

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The Request for Tenancy Approval (RFTA) form**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the HACSD policy on providing information about families to prospective owners.
- The HACSD subsidy standards including when and how exceptions are made, and how the voucher size relates to the unit size selected.
- Materials on how to select a unit and any additional information on selecting a unit that HUD provides.
- 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.

- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.

If the PHA is located in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB, Notice PIH 2017-12].

HACSD Policy

The PHA will provide the following additional materials in the briefing packet:

The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*

The HUD brochure, *"A Good Place to Live."*

A copy of HUD form 903, for how to fill out and file a housing discrimination complaint form

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

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 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.

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required by Family Obligations

HACSD Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the PHA of a change, notifying the PHA of the request or change within 14 calendar days is considered prompt notice.

When a family is required to provide notice to the PHA, the notice must be in writing.

Family Obligations [24 CFR 982.551]

HACSD Policy

Appointments

In the administration of the programs, families are required to be available for various reasons including eligibility interview, 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 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.

Persons with a disability connected need who are unable to come to the HACSD office will be granted an accommodation by conducting the interview at the person's home or by telephone. The family obligations of the voucher are listed as follows:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA 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 and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

HACSD Policy

Damages beyond normal wear and tear will be considered to be 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, as described in Chapter 8 of this plan. The family must allow the owner access to the premises to make repairs after reasonable notice was given.

- The family must not commit any serious or repeated violation of the lease.

HACSD Policy

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 and repeated lease violations will include, but not be 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.

Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

HACSD Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the PHA at the same time the owner is notified.

- The family must promptly give the PHA 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 composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

HACSD Policy

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 or registered domestic partnership, adoption, return of a disabled or minor child to the family, court-awarded custody of a child, or addition of an elderly or disabled dependent adult. 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 request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HACSD will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the HACSD has given 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. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (sections I.K and I.M), and Chapter 11 (section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

HACSD Policy

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 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 promptly notify the PHA when the family is absent from the unit.

HACSD Policy

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 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 promptly notify the PHA when the family is absent from the unit.

HACSD Policy

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 notify the HACSD prior to moving from the unit.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, whether or not a family member, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space, or a Section 8 Homeownership Program participant).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must 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 other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- 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.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive Section 8 HCV tenant-based program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- For PHA's 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.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACSD has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]
- 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.

HACSD Policy

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 the 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 or registered domestic partnership, adoption, court-awarded custody, return of minor or disabled children, or elderly or disabled dependents 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.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

The following requirements apply when the PHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

<u>HACSD Policy</u>

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.

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:

Voucher Size	Persons in the Household (Minimum — Maximum)
0 Bedroom	1-1
1 Bedroom	1-2
2 Bedroom	2-4
3 Bedroom	4-6
4 Bedroom	6-8
5 Bedroom	8-10
6 Bedroom	10-12

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 17 of the 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.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards, upon request, if the PHA 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)].

<u>HACSD Policy</u>

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 over-crowded, but they are not entitled to additional bedrooms.

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 caregivers 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.

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. If the request is for a live-in aide, it must explain why a live-in aide will be essential for the care of an elderly, near elderly person or a person with disabilities. 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. The HACSD must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8. 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.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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 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 that 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 [Voucher, form HUD-52646].

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV GB].

HACSD Policy

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.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB].

HACSD Policy

Prior to issuing any vouchers, the PHA will determine if it has sufficient funding in accordance with the policies in Part VIII of Chapter 16. If the HACSD determines there is insufficient funding after a voucher to an applicant is issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

5-II.E. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

HACSD Policy

The initial voucher term will be at least 60 calendar days.

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.

Extensions of Voucher Term [24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

HACSD Policy

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. Any request for an additional extension must include the reason(s) an additional extension is necessary. The PHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

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 beyond 180 days if a family has a need for reasonable accommodation for a household member with a disability.

After the first 30 days of the search, a 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.

The PHA may approve additional extensions upon written request from the family as authorized by the appointing authority. The PHA will provide notification to the family of any decision to approve or deny a request for an extension.

Suspensions of Voucher Term [24 CFR 982.303(c)]

The PHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for tenancy approval (RFTA) until the date the PHA notifies the family in writing whether the request has been approved or denied. When a RFTA is received, the PHA will add the number of days taken to process the RFTA to the term of the voucher. This is called "tolling."

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB].

HACSD Policy

If an applicant family's voucher term or extension expires before the HACSD has approved a tenancy, and an extension is not granted, the HACSD will require the family to reapply for assistance. The family is not entitled to a review or hearing.

Chapter 6 - INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

Introduction

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

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

Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> - Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
> - Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
> - Which are not specifically excluded in paragraph [5.609(c)].
> - Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

HACSD Policy

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.

Kin-GAP Income

California Kinship Guardian Assistance Payments (Kin-GAP) income is excluded from the family's annual income [PIH Notice 2012-1]. These children are considered regular family members and not foster children.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB].

HACSD Policy

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 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.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

HACSD Policy

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.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

HACSD Policy

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 has engaged in violent or drug-related criminal activities including the 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.

Absent Head, Spouse, or Cohead

HACSD Policy

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.

Absence of Any Member

HACSD Policy

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.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB].

HACSD Policy

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.

If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

HACSD Policy

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.

Caretakers for a Child

HACSD Policy

The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA will take the following actions.

(1) 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, nor deductions allowed.

(2) 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. At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

(3) If there is court action to award custody of legal guardianship to the caretaker, the voucher will be transferred to the caretaker, providing the caretaker meets all

eligibility criteria for household additions.

(4) 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.

(5) 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, according to the period the caretaker has custody of the children.

(6) 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.

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

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.

4-Basis of Annual Income Projection

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

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

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

<u>HACSD Policy</u>

When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant- provided documents are pay stubs, the PHA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The PHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the PHA determines additional information is needed.

In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

When the HACSD cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. The HACSD will use the most current income data and, if appropriate, historical income data to calculate the anticipated annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the PHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual 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 by using the current month's benefit, which is then multiplied by 12. The future month's benefit is not considered, as it may change.

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

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

HACSD Policy

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.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

HACSD Policy

Income Types 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 child care 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.

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

HACSD Policy

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.

Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB]. 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.

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual 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 such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

HACSD Policy

The HACSD defines *training program* 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 to 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. 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" [expired Notice PIH 98-2, p. 3].

The HACSD defines *incremental earnings and benefits* 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 of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

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.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

HACSD Policy

To qualify as a training program, the program must meet the definition of training program provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26

U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

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

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This benefit is allowed once per family member in a lifetime. This disallowance applies only to individuals in families already participating in the following programs: HOME Investment Partnerships Program, Housing Opportunities for Persons with AIDS, Supportive Housing Program, and the Housing Choice Voucher Program (not at initial examination). 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).

To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self- sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

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.

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. 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.

If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID. Exempt income may never exceed the amount of employment income.

While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Participants qualifying prior to May 9, 2016, will have the disallowance calculated under the "Original Calculation Method" described below which requires a maximum lifetime disallowance period of up to 48 consecutive months. Participants qualifying on or after May 9, 2016, will be subject to the "Revised Calculation Method" Which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

The maximum child care 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.

Original Calculation Method

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

HACSD Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings. An interim may be necessary to properly apply the initial and phase-in exclusion periods and to remove the exclusion.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance. 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.

HACSD Policy

During the 48-month eligibility period, the HACSD will schedule and conduct an interim reexamination if necessary, to accurately calculate full, phase-in, and end of exclusion periods. 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.

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.

Revised Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

HACSD Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

HACSD Policy

During the second 12-month exclusion period, the HACSD will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24- month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB].

HACSD Policy

To determine business expenses that may be deducted from gross income, the HACSD will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

HACSD Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

HACSD Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. The HACSD will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

HACSD Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of

$2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

HACSD Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3); 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or

the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

HACSD Policy

Each time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the HACSD to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

HACSD Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

HACSD Policy

The HACSD will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The HACSD will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account,

the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

HACSD Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset 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.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted.

HACSD Policy

The HACSD will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $10,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value, except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

HACSD Policy

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.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

HACSD Policy

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.

Types of Assets

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.

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

HACSD Policy

In determining the value of a checking or savings account, the HACSD will use the current statement 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 asset value.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

HACSD Policy

In determining the market value of an investment account, the HACSD will use the value of the account on the most recent investment report 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 the 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.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset 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 [HCV GB].

HACSD Policy

In determining the equity, the PHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The PHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the PHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income ***except*** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB]
- Equity in real property when a family member's main occupation is real estate [HCV GB]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash

[Notice PIH 2012-3].

HACSD Policy

For the purposes of calculating expenses to convert to cash for real property, the HACSD will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

HACSD Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the HACSD determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB]. 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 a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB.], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member. 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.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB].

HACSD Policy

In determining the value of personal property held as an investment, the HACSD will use the family's estimate of the value.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

HACSD Policy

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

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.”

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV GB].

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. 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.

HACSD Policy

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.

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. 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].

  HACSD Policy

  The HACSD will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB].

- 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 [24 CFR 5.609(c)(16)]. For example: IHSS payments to a family member in the home for the care of the member with the developmental disability also living in the home.
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

HACSD may conduct 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

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.

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

HACSD Policy

Acceptable methods of verification include:

HACSD verification form completed by the 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

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (’welfare agency’) 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 such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

HACSD Policy

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

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

HACSD Policy

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.

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

HACSD Policy

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.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9); Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income

[24 CFR 5.609(b)(9); FR 4/10/06; Notice PIH 2015-21]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child, institution of higher education,* and *parents* in section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
    - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
    - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
    - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
    - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
    - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed- sum charges.

Student Financial Assistance *Excluded* from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 *AND* have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]

- 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) [(24 CFR 5.609(c)(8)(ii)]
- 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 [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- 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 [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. 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) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

  (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

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

  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

  (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

  (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

  (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

  (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

  (k) 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 *Elouise 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

  (l) 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)

  (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(o) 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 Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(r) 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)

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(t) 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)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)

(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(w) 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)

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) 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

(aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
>
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

HACSD Policy

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., child care 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.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "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."

HACSD Policy

Medical expenses are allowed only for elderly or disabled families, with a head of household or spouse who is elderly, disabled, or both.

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used as a guide to assist in determining allowable medical expenses in instances when the regulations or HACSD policies are unclear.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

HACSD Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACSD will consider them medical expenses.

Standards for Physical Therapy/Exercises at Non-Traditional Settings

Physical and mental health therapy expenses for treatment at non-traditional 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.

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, as opposed to traditional or mental health therapy administered by licensed medical personnel at their medical offices, medical facilities or hospitals.

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.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

[24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work,

(2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work.

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

HACSD Policy

The family must identify the family members enabled to work as a result of the 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 disabilities that might determine which family members are enabled to work.

When the HACSD determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

HACSD Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. 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 maintenance of the apparatus itself) is an eligible expense.

The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included. See 7-IV.C. for required documentation.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

HACSD Policy

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 included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities 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.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

HACSD Policy

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.

Families That Qualify for Both Medical and Disability Assistance Expenses

HACSD Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACSD will consider them medical expenses.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) 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 or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

HACSD Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the HACSD will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

HACSD Policy

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.

Furthering Education

HACSD Policy

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.

Being Gainfully Employed

HACSD Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB].

HACSD Policy

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.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Child Care Activities

HACSD Policy

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.

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.

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The HACSD will not provide a deduction for non-childcare services provided by the child care provider such as housekeeping, shopping, or cooking, nor for child care 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.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

HACSD Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

The HACSD may review comparable fees from local childcare providers in the community for information on average childcare costs. The HACSD will calculate childcare expenses using the standard of reasonable comparable child care costs, or the amount submitted by the participant, whichever is lower.

If the family presents a justification for costs that exceed the standard costs in the area, the HACSD ill request additional documentation, as required, to support a determination that the higher cost is appropriate.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

HACSD Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HACSD Policy

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.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6- III.C.)

PHA Subsidy [24 CFR 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

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.

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

HACSD Policy

The HACSD will make utility reimbursements directly to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

HACSD Policy

The HACSD will issue all utility reimbursements monthly 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.)

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HACSD Policy

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.

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. The following section identifies HACSD's procedures and policies concerning minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

HACSD Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

HACSD Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's inability to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

HACSD Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship.

(5) The family has experienced other circumstances determined by the PHA.

HACSD Policy

The PHA will review circumstances on a case by case basis.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

HACSD Policy

The HACSD defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

HACSD Policy

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.

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.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

HACSD Policy

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.

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.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA will suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the HACSD the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

HACSD Policy

HACSD will offer a Payment Plan Agreement to the family for any such rent not paid during the temporary hardship period, in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the HACSD determines that the financial hardship is long-term, the HACSD must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

HACSD Policy

The hardship period ends when, at an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]

Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

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)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB].

Changes in Payment Standards

When the HACSD revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

HACSD Policy

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

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB,].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the HACSD is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB].

Utility Allowance Revisions

At reexamination, the PHA must use the current utility allowance schedule [HCV GB].

> HACSD Policy
>
> The HACSD will review and revise the utility allowance schedule annually.
>
> Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. Calculations are performed on the HUD 50058 form.

For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

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

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of
$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump- sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

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

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

[1] Text of 45 CFR 260.31 follows.

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term “assistance” mean?

(a)(1) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph
(b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) 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 (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) 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);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest 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 such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) 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;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) 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; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M. for a list of benefits that qualify for this exclusion.]

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as 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 temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) *Disallowance of increase in annual income—*

(1) *Initial twelve month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and phase- in.* Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24- month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615 Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") 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 such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7 - VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2018-18]

INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process.

Part II provides more detailed requirements related to family information.

Part III provides information on income and assets, and

Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

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].

Consent Forms

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.

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.

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.

Penalties for Failing to Consent [24 CFR 5.232]

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. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

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/WTW 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

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2018-18]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Tenant Certification/Self-declaration

HACSD Policy

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.

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

HACSD Policy

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.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

HACSD Policy

The HACSD will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing adjusted income

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 [24 CFR 982.516(a)(2); Notice PIH 2018-18].

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).

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. This includes the EIV System wage, pension, social security and supplementary security income (SSI), the Work Number for wage income information, the local public assistance provider on-line informational link for CalWORKs or TANF income, etc. UIV will be used to the extent that these systems are available to the PHA. If income information received from this UIV source is reliable, no other verification is required.

HACSD Policy

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.

There may be legitimate differences between the information provided by the family and UIV- generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

HACSD Policy

The HACSD will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

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:

Discuss the income discrepancy with the tenant;

Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or income sources;

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;

If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income retroactively;

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.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

HACSD Policy

The HACSD will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The HACSD will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources

HACSD Policy

The HACSD will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

The Work Number

Local Public Assistance provider on-line informational link

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.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2018-18]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

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.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

HACSD Policy

Third-party documents provided by the family must be dated within 60 days of the PHA request date or within the 60-day period preceding the reexamination. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents.

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.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation or follow up with the source to obtain necessary verification of information.

As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form.

PHAs may mail, fax, or email third-party written verification form requests to third-party sources.

HACSD Policy

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.

The PHA will send third-party verification forms directly to the third party via mail, fax or email.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation.

Oral Third-Party Verification [Notice PIH 2018-18]

Oral third-party verification is independent verification of information by contacting the individual income/expense source(s) as identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

HACSD Policy

In collecting third-party oral verification, HACSD staff will document in the tenant file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When Third-Party Verification is Not Required [Notice PIH 2018-18]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB].

HACSD Policy

The HACSD will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling $5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

HACSD Policy

For families with net assets totaling $5,000 or less, the HACSD will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The HACSD will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

HACSD Policy

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.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HACSD Policy

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).

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2018-24]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- 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 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.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

HACSD Policy

The HACSD will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

If an applicant family includes a child under six years of age who joined the household within the six months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

HACSD Policy

Unforeseen circumstances include, but are not limited to: delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least six years of age, or who is under the age of six and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of interim, or regularly scheduled reexamination or recertification, or recertification of family composition or income in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of six and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension

will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

HACSD Policy

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.

Social security numbers must be verified only once during continuously-assisted occupancy.

The HACSD will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

HACSD Policy

the HACSD will retain verification in the file in accordance to its records retention policy. 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.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

HACSD Policy

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

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

HACSD Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is 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

Marriage

HACSD Policy

Generally, certification by the family is normally sufficient verification. If the HACSD has reasonable doubts about a marital relationship, the HACSD will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married. Other verification of marriage status may include a marriage license or on-line data confirmation from public records.

A Certificate of Registration of Domestic Partnership or other state documentation generally is required to verify that a couple is registered as domestic partners.

Separation or Divorce

HACSD Policy

Generally, certification by the family is normally sufficient verification. If the HACSD has reasonable doubts about a separation or divorce, the HACSD will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A Notice of Termination of Domestic Partnership or, if applicable, a dissolution decree, signed by a court officer, is required to document the termination of domestic partnership.

A copy of a court-ordered maintenance or other court record is required to document a separation.

Absence of Adult Member

HACSD Policy

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.

Foster Children and Foster Adults

HACSD Policy

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.

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.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

HACSD Policy

The HACSD requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified when:

The family includes a student enrolled in an *institution of higher education* other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further his or her education.

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

Verification of full-time student status must include one of the following:

- Written verification from the registrar's office or other school official
- School records indicating enrollment for the 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

If the status is questionable, the family may be required to provide verification of completion of classes (e.g. transcript) 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.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

HACSD Policy

In accordance with the verification hierarchy described in section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in section 3-II.E.
- The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents'

income eligibility (see section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

HACSD Policy

The HACSD will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)
- Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the PHA determines that the student is a *vulnerable youth* (see section 3-II.E)

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

HACSD Policy

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 receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

HACSD Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

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.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a

U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)].

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

HACSD Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

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.

PHA Verification [HCV GB]

HACSD Policy

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.

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.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

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.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list. [24 CFR 982.207]

HACSD Policy

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, and medical records.

Veterans Preference: This preference is available to active members of the U.S. 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 or 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 62 years of age 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 or 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 HACSD around the time of selection from the waiting list.

Acceptable documentation includes the following: driver's license, automobile registration, documentation from a San Diego County benefit provider, or 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:

PHA-approved referral documentation.

Special Local Preference for Non-Elderly Disabled Applicants who are homeless or exiting institutions-HHSA involved: The documentation for non-elderly disabled households claiming this special local preference is detailed in Chapter 18-I. Documentation for exiting an institution includes a certification from a medical provider. Documentation of homeless status is as listed above. In addition, documentation for each preference must include:

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.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Wages and Tips

HACSD Policy

Verification forms may request the employer specify:

- 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.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

HACSD Policy

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 child care 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.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits

HACSD Policy

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.ssa.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, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or 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.ssa.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

HACSD Policy

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

HACSD Policy

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

Regular Contributions and Gifts

HACSD Policy

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

7-III.D. ALIMONY OR CHILD SUPPORT

HACSD Policy

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
- The family 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 for ***regular*** payments include:

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

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB].

HACSD Policy

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 preceding the effective date of the certification or re-certification.

Assets Disposed for Less than Fair Market Value

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.

Acceptable Methods of Verification

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
- IRS Form 1099 from the financial institution provided that the HACSD must adjust the information to project earnings expected for the next 12 months.
- 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

7-III.F. NET INCOME FROM RENTAL PROPERTY

HACSD Policy

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.

7-III.G. RETIREMENT ACCOUNTS

HACSD Policy

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

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.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

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) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

HACSD Policy

The HACSD will accept the family's self-certification as verification of fully excluded income.

The HACSD will verify the source and amount of partially excluded income as described in Part 1 of this chapter. Earned Income Disallowance is an example of partially excluded income. This income must be verified in order to determine the correct amount of the incremental income increase.

7-III.I. ZERO ANNUAL INCOME STATUS

HACSD Policy

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.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

HACSD Policy

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

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 component of an athletic scholarship is counted as income.

Student Eligibility and Financial Aid Included in Annual Income

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.

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the PHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the PHA will request written verification of the student's tuition amount.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents or a *vulnerable youth* in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

HACSD Policy

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.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Pregnant Applicant/Participant

An unborn child is not eligible for a dependent allowance.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student.

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

HACSD Policy

It is the responsibility of the family to provide documentation of expenses in the format required by the HACSD. Expenses that cannot be supported by clear and acceptable documentation will be disallowed. Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The HACSD will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACSD will also accept evidence of monthly payments or total payments what will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.

- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a medical expense.

HACSD Policy

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.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

HACSD Policy

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.

Expenses Incurred in Past Years

HACSD Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HACSD will verify:

The anticipated repayment schedule,

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

HACSD Policy

Attendant care verifications include:

- 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.

Auxiliary Apparatus

HACSD Policy

Expenses for auxiliary apparatus will be verified through:

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.

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

HACSD Policy

Service Animals

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.

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HACSD Policy

The HACSD will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

HACSD Policy

The family will be required to certify whether attendant care or auxiliary apparatus expenses are paid by or reimbursed to the family from any source, and the amount of any reimbursement received.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HACSD Policy

The family must certify if any child care expenses have been, or will be, paid or reimbursed by outside sources.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

HACSD Policy

Information to be Gathered

The HACSD will compare the hours of child care with the activities engaged in by the adult household member requiring the child care 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 child care.

Seeking Work

The HACSD will request documentation in the form of a written log indicating the date, beginning and ending times, and the names and addresses where the adult family member went to actively seek employment.

Furthering Education

The HACSD will request proof of enrollment in an academic or vocational school or a formal training program and the hours of classes or training. The documentation may be provided by the family and may include a copy of the schedule of classes.

The number of hours claimed for child care may not exceed the number of hours the family member is attending school, plus reasonable transportation time not to exceed one hour per day.

Gainful Employment

The HACSD will seek third-party employer verification of the work schedule of the person who is permitted to work by the child care. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HACSD Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HACSD will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HACSD will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

HACSD Policy

The actual costs the family incurs will be compared with the HACSD's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. The HACSD may review comparable fees from local child care providers in the community for information on average child care costs.

The HACSD will calculate child care expenses using the standard of reasonable comparable child care costs, or the amount submitted by the participant, whichever is lower.

If the family presents a justification for costs that exceeds the standard costs in the area, the HACSD will request additional documentation, as required, to support a determination that the higher cost is appropriate.

In all cases, written verification from the recipient of the child care payments is required. If the child care provider is an individual, s/he must provide a statement of the amount charged the family for the services.

Third-party verification must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including adjusted figures for school and vacation periods. Other forms of verification may be accepted, such as receipts, invoices or other tenant provided documentation from the child care provided. Self-certification may be accepted when other forms of verification are not available.

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB]	
• **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. • Except for persons 62 or older, all noncitizens must sign a verification consent form • Additional documents are required based upon the person's status.	
Elderly Noncitizens • 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.	
All other Noncitizens • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • 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);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
• 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 • 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 *Federal Register*	

Chapter 8 - HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. HQS standards apply to the building and premises, outbuildings, as well as to the unit.

The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

> ***Part I. Physical Standards***. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> ***Part II. The Inspection Process***. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.
>
> ***Part III. Rent Reasonableness Determinations***. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors
- A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards

[24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB]

The PHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

HACSD Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit when the outside temperature is below 65 degrees Fahrenheit.

Clarifications of HUD Requirements

HACSD Policy

The HACSD adheres to HUD HQS, as well as the following local standards [24 CFR 982.402(a)]:

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.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life- threatening conditions within 24 hours of PHA notification.

HACSD Policy

The following items are considered of an emergency nature:

Lack of security for the unit;

Major plumbing leaks or flooding;

Waterlogged ceiling or floor in imminent danger of falling;

Strong smelling natural gas leak or fumes;

Electrical problem likely to cause shock or fire;

No heat when the outside temperature is below 65 degrees Fahrenheit and temperature inside the unit is below 65 degrees Fahrenheit;

Utilities not in service;

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.

If an owner fails to correct life-threatening conditions as required by the HACSD, the HACSD will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the HACSD, the HACSD will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the HACSD determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service;
- Failure to provide or maintain appliances owned by the family;
- Failure to allow the owner access to the premises to make repairs after reasonable notice was given;
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

HACSD Policy

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.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section

8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons
- A unit that does not meet these HQS space standards is defined as *overcrowded*.
- A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB]. A bedroom or living/sleeping room must have at least:
- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Annual/Biennial Inspections*. HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

<u>HACSD Policy</u>

There are five types of inspections the HACSD performs:

- *Initial/move-in*: Conducted after receipt of the RFTA.
- *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.
- *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.
- *Special/complaint*: At request of owner, family, an agency, or another third party.
- *Quality Control (QC):* This inspection involves a required minimum random sample of previously completed inspections.

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.

Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

<u>HACSD Policy</u>

The HACSD will not charge a fee for failed reinspections.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

<u>HACSD Policy</u>

The family must allow the HACSD to inspect the unit at reasonable times with reasonable advance notice. 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.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB].

<u>HACSD Policy</u>

When a family occupies the unit at the time of inspection an adult family member or other adult with written authorization must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the HACSD will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Initial Inspections [FR Notice 1/18/17]

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

HACSD Policy

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.

Timing of Initial Inspections

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

HACSD Policy

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.

Inspection Results and Reinspections

HACSD Policy

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. Generally, the owner will be allowed up to two re-inspections for repair work to be completed. Additional re-inspections may be allowed on a case-by-case basis. 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.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

HACSD Policy

All utilities must be in service when the unit is inspected.

Appliances [Form HUD-52580]

HACSD Policy

If the family 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 met all other HQS requirements. 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 reinspection. 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.

8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

HACSD Policy

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. The HACSD may conduct these activities together or separately. 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.

Special inspections may be scheduled, upon request, between anniversary dates.

Scheduling the Inspection

HACSD Policy

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 Chapter 12. "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.

8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

HACSD Policy

The HACSD will conduct a complaint inspection when it receives landlord or tenant notice that the unit does not meet HQS [24 CFR 982.405(c)].

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.

Move Out/Vacate Inspection

A move-out inspection may be performed upon landlord request to observe and document possible tenant lease violations.

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.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB]

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.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life- threatening condition and (2) whether the family or owner is responsible.

HACSD Policy

The landlord must correct HQS deficiencies that cause a unit to fail, unless the fail is the tenant's responsibility.

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.

Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

HACSD Policy

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.

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.

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.

Reinspections

HACSD Policy

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.

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.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

HACSD Policy

The HACSD will send a notice of abatement to the owner and the abatement will be effective the first of the month following the expiration of the HACSD's specified correction period (including any extension).

The HACSD will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective 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. During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

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.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB] and must give the owner reasonable notice of the

termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

HACSD Policy

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.

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the PHA is 30 days.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

HACSD Policy

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 inspector will determine if an HQS breach is the responsibility of the family.

The owner's rent will not be abated for items found to be the family's responsibility.

Families may be given extensions to cure HQS breaches. 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.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS
[24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

HACSD Policy

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. [Notice PIH 2017-18]

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 on the premises or 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.

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.

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.

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

HACSD Policy

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.

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.

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.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

HACSD Policy

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program- assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2011-46].

Note: Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

HACSD Policy

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 Go Section 8 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.

How Rents Are Determined

HACSD Policy

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.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within 30 days when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint
- Maintain covered housing without deteriorated paint if there is child under six in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the PHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities within 30 days.

See HCV GB for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9 - GENERAL LEASING POLICIES

Introduction

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA

must also inform the owner or manager or his/her rights and obligations under the Violence against Women Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records) and the name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

HACSD Policy

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 Program Coordinator, 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 Program Coordinator must approve the release of any information in accordance with the regulations [24 CFR 5.903, 24 CFR 5.905].

The HACSD must not release specific personal information to owners regarding their former Section 8 tenants.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB].

<u>HACSD Policy</u>

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 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 RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

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.

When the family submits the RFTA the HACSD will review the RFTA for completeness.

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.

9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may <u>not</u> assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42

U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

HACSD Policy

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.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);

- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

HACSD Policy

HQS 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

Unit Size	Maximum Number Allowed in Household*
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.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

HACSD Policy

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.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

> HACSD Policy
>
> 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 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.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

HACSD Policy

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 activites 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.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

HACSD Policy

The HACSD will allow an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV GB]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

HACSD Policy

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.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner

[24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

HACSD Policy

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.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

HACSD Policy

If the dwelling lease is incomplete or incorrect, the HACSD will notify the family and the owner of the deficiencies.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

HACSD Policy

The HACSD will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

HACSD Policy

A determination must have been made that the family is eligible for a HAP payment.

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.
- 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.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

HACSD Policy

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 [24 CFR 982.305(c)].

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.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

HACSD Policy

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.

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.

Chapter 10 - MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. 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 section 10-I.B.

- 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)].

  HACSD Policy

  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).

  HACSD Policy

  If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the HACSD 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 HACSD will request that the resident request the emergency transfer using form HUD-5383, and the HACSD 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 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 as Exhibit 16-3 to this plan and discuses external transfers to other covered housing programs.

- The PHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The PHA 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, the PHA must issue the family a new voucher, and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA 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) and (c)].

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)].

However, Notice PIH 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

HACSD Policy

The HACSD will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance.

The HACSD will create a list of families whose moves have been denied due to insufficient funding. The HACSD will keep the family's request open during the period of insufficient funding and when funds become available the families on this list will be notified by mail.

The HACSD will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

HACSD Policy

If the HACSD has grounds for denying or terminating a family's assistance, the HACSD will act on those grounds in accordance with the regulations and policies set forth in

Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

The HACSD will deny the family permission to move if:

- 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 the HACSD jurisdiction.
- The family is ineligible because of criminal history or criminal activities.

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

HACSD Policy

Families will generally not be permitted to transfer their assistance during the initial term of the lease. The HACSD will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HACSD's jurisdiction or outside it under portability.

Families will generally not be permitted to move more than once in a 12-month period. The HACSD will deny a family permission to make more than one elective move during any 12-month period.

The HACSD will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, dating violence, stalking, witness protection programs), there is a change of ownership and the HAP contract is not assigned to the new owner, or to address an emergency situation over which a family has no control.

The family will also be allowed to move if it received 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 landlord).

Families will not be eligible to move with continued program participation if they will be in zero pay status at the new unit.

In addition, the HACSD will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

Approval

HACSD Policy

The initial briefing session will emphasize the family's responsibility to give the owner and the HACSD property 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.

Upon receipt of a family's notification that it wishes to move, the HACSD will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The HACSD will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

HACSD Policy

For families approved to move to a new unit within the HACSD's jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in

Chapter 11 of this plan.

For families moving into or families approved to move out of the HACSD's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

HACSD Policy

For families approved to move to a new unit within the HACSD's jurisdiction, the HACSD will issue a new voucher. No briefing is required for these families. The PHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance 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.

For families moving into or families approved to move out of the HACSD's jurisdiction under portability, the HACSD will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

HACSD Policy

When a family moves out of an assisted unit, 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 extenuating circumstances, assistance on the old and new units may not overlap. The HACSD may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

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.

Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.

HACSD Policy

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.

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP contract on behalf of the family for the

new unit.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA.** The PHA that has jurisdiction in the area to which the family wants to move is called the receiving PHA.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. When a family provides a written request to move outside of the PHA's jurisdiction, the request must specify the area to which the family want to move. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family [24 CFR 982.255(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

HACSD Policy

The HACSD may, if warranted by funding constraints and if permitted under regulations, deny a family's portability to a higher cost area.

HACSD will follow the policies established in section 10-I.B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

HACSD Policy

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.

The HACSD will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a 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 982.353(b)].

HACSD Policy

The HACSD will determine whether a participant family may move out of the HACSD's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter.

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 outlines elsewhere in this chapter; or
- The family is being investigated for possible ineligibility for the program.

The PHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

A family cannot extend its move-out notice if a portability packet has been issued to the receiving PHA.

Determining Income

Eligibility *Applicant*

Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

HACSD Policy

HACSD will not require a new reexamination of family income and composition for the applicant or participant family. The HACSD will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

HACSD Policy

No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the HACSD will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

The HACSD will provide the name, address, and phone of the contact for the PHAs in the jurisdiction to which they wish to move.

The HACSD will advise the family that they will be under the RHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

HACSD Policy

For participating families approved to move under portability, the PHA will issue a new voucher within 10 days of receipt of all required documentation. The initial term of the voucher will be a minimum of 60 calendar days.

Voucher Extensions

HACSD Policy

The HACSD will only approve extensions to a voucher issued to an applicant or participant family porting out of the HACSD's jurisdiction under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction.

In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

Voucher Expiration

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 90 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy).

Portability Move-Out Date

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 at their current unit beyond their intended move-out date, the portability request will be considered canceled by HACSD. 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.

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

HACSD Policy

The HACSD will make contact with the receiving PHA by mail, telephone, fax or e-mail.

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

HACSD Policy

Because the portability process is time-sensitive, the HACSD will notify the receiving PHA by phone, fax, or email to expect the family. The HACSD will provide the contact information for the receiving PHA to the family.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

HACSD Policy

In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the initial PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

HACSD Policy

If the HACSD does not receive a billing notice from the receiving PHA within 90 days of the initial expiration date of the voucher, the HACSD will contact the receiving PHA to determine 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.

The HACSD will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

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.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

<u>HACSD Policy</u>

The HACSD, as the initial PHA, will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

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. [Notice PIH 2016-09].

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4).

HACSD Policy

The HACSD will notify the initial PHA in writing within 10 working days of the effective date of a decision to absorb the family.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2016-09].

HACSD Policy

The HACSD may not delay processing the incoming portability by requiring the family to attend a briefing not scheduled for three or more weeks.

The HACSD will orally inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

HACSD Policy

As the receiving PHA, the HACSD may conduct a reexamination interview, but will only verify information when documents are missing, over 120 days old, or if the family circumstances have changed. The HACSD will request all necessary third-party verification. 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 the median area income.

The HACSD interview will not cause a delay in the issuance of a voucher.

For an admission to the program, a family must be income-eligible in the area it initially receives assistance.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice

PIH 2016-09].

HACSD Policy

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 the 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 family fails to comply with the receiving PHA's procedures- for example, completing disclosure forms or certifications.

The HACSD may not delay processing the incoming portability by requiring:

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.

Voucher Term

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

HACSD Policy

If the initial PHA's voucher has already expired when the family arrives at the HACSD (receiving PHA), the HACSD will 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. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

HACSD Policy

The HACSD generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACSD plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

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 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 term of the voucher will not expire before 30 calendar days from the expiration date of any initial PHA voucher.

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 the HACSD's jurisdiction.

When the HACSD does not absorb the incoming voucher, it will administer the initial PHA's voucher and the HACSD's policies will prevail.

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 are no longer valid when a family decides not to lease in the HACSD's jurisdiction.

The HACSD will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2). 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.

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2016-09].

HACSD Policy

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 calendar 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 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 or review will be issued.

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.

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the

proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

HACSD Policy

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 rate) for each "portability" voucher leased on the first day of the month.

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; and

Family transfers from one unit to another, with the HACSD's jurisdiction.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

HACSD Policy

The HACSD will 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 will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless the initial PHA is willing to accept the late submission or

HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-09]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2016-09]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2016-09].

HACSD Policy

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.

The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

HACSD Policy

If the HACSD decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACSD will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the PHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

Chapter 11 - REEXAMINATIONS

INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

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

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

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS
[24 CFR 982.516]

11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

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

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

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed-income review is required. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

<u>HACSD Policy</u>

In accordance with HUD requirements, the HACSD will reexamine the income, assets, deductions, allowances and household composition of families at least annually.

HACSD may conduct 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:

- Social security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, State, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB].

HACSD Policy

The HACSD will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is generally defined as 12 months from the effective date of the family's initial examination (admission), or from the effective date of the family's last annual reexamination.

The anniversary date will always be the first day of the month in which the initial examination or the last reexamination occurred.

If the family moves to a new unit, the HACSD will perform a new annual reexamination unless the eligibility booklet was signed within 120 days of the execution of the new HAP contract for the new unit.

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

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

HACSD Policy

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 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 disability, or in emergency circumstances, such as hospitalization.

If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the PHA to request a reasonable accommodation (see Chapter 2). These accommodations will be granted upon verification of a disability and disability-related need for the requested accommodation:

The HACSD will contact the persons by telephone, through a relay service for the hearing impaired, or in another appropriate manner.

The HACSD will mail the notice to a third party, if requested.

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

HACSD Policy

The HACSD's procedure for conducting annual recertifications requires recertification through the mail. 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 HACSD has established recertification procedures that ensure that the income data provided by families is complete and accurate.

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 family must complete the recertification packet as a condition of continued program participation. All adult family members, 18 years and older, and family members who will turn 18 years of age as of the effective date of the recertification are required to sign the recertification packet.

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 certification altered or amended by the family are unacceptable and would be considered "failure to provide."

Verifications for reexaminations must be less than 120 days old as of the effective recertification date.

If warranted, an HQS inspection will be completed in accordance with the policies in 8-II.C.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

HACSD Policy

At the annual reexamination, the HACSD will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in

any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents or is considered a *vulnerable youth* in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

HACSD Policy

During the annual reexamination process, the PHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the HACSD will process a reexamination in accordance with the policies in this chapter.

11-I.F. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

HACSD Policy

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.

The HACSD will conduct and 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.

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.

PART II: INTERIM REEXAMINATIONS
[24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

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

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

HACSD Policy

The income of an additional family member will be included in the family income as applicable under HUD regulations upon HACSD and owner approval of the admission. The HACSD will conduct a full interim reexamination to account for any changes in household composition that occur between annual reexaminations, except for additions due to birth.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

HACSD Policy

The family must inform the HACSD of the birth, adoption, court-awarded custody of a child, minor or disabled children returning to the family, or elderly or disabled dependent within 14 calendar days. Any information, documents or signatures needed from the family in order to verify the change must be provided when requested.

If the family composition is not reported within the required time period, or the family fails to provide documentation or signature, it will be considered untimely reporting. Untimely reporting may result in a termination of assistance or the family being required to sign a repayment agreement.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court- awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

HACSD Policy

The family must obtain HACSD approval of any additional family member prior to that person moving into the assisted unit. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest."

Additions through birth, adoption, return of disabled or minor children to the family, or court-awarded custody do not require prior approval by the HACSD, but the family must report these additions within 14 calendar days.

The HACSD will not approve the addition of a new family or household member unless the individual meets the HACSD's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II). The HACSD will make an exception for additions through marriage or registered domestic partnership, and for elderly or disabled dependents. For instances where a participation prohibition period is not indicated elsewhere in the Plan, the prohibition period is three years, unless the HACSD determines extenuating circumstances.

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.

Except for birth, adoption, court-awarded custody, marriage or registered domestic partnership, return of disabled or minor children to the household, foster children or a live-in aide, or elderly or disabled dependents, the HACSD will not approve the addition of other adults/children to the household during the first 12 months after program admission. Thereafter, other than the exceptions noted above, the HACSD will deny a family's request to add more than a total of two people in a 12-month period. Each non-excepted adult member added to the household must have current income and an 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.

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.

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.

Eligible additions cannot be added if the unit will be overcrowded, but the family may transfer to a larger unit.

The HACSD will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards. The family may transfer to a larger unit. The family may receive a larger voucher to add permanent foster children/adults in accordance with the subsidy standards.

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.

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.

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.

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.

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the

family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

HACSD Policy

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 whether the member is temporarily or permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HACSD within 14 calendar days.

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.

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.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

HACSD Policy

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:

For families receiving the Earned Income Disallowance (EID), the HACSD will conduct an interim reexamination at the start and conclusion of the second 50 percent phase-in period of the 24-month eligibility period.

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:

Family Size	Minimal Income
1	$200
2	$250
3	$300
4	$350
5	$400
6	$450
7	$500

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. An interim reexamination does not affect the date of the annual recertification.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HACSD may schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HACSD will conduct an interim reexamination.

If it has been determined that a calculation error had occurred or the calculation was based on incorrect or incomplete information.

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 immediately following the annual recertification.

If there is an increase in income less than 90 days after an interim for a decrease in income has been conducted.

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.

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).

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.

Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

HACSD Policy

Families are required to report all changes in income, including new employment, within 14 calendar days of the date the change takes effect.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

HACSD Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the PHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

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 and 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.

Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

HACSD Policy

The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

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

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, by email, by fax, or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB].

HACSD Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following a 20-day reasonable advance notice.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

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.

If the family share of the rent is to *decrease*:

The decrease will generally be effective on the first day 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 cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively, providing the family has complied with its obligations. If there is a 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.

Untimely Processing

"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.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV GB]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
    - If the payment standard amount has i*ncreased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
    - If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

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

Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB].

HACSD Policy

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

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

EXHIBIT 11-1: UNRESTRICTED, PARTIALLY RESTRICTED AND RESTRICTEDADMISSIONS TO THE HOUSEHOLD

Type of Admission?	**Prior Approval?**	**Criteria to allow admission?**
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 or Registered Domestic Partner	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 an average of 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, but family may transfer to add Subject to the limitation of no more than two people every 12 months of Other Adults/Children
Foster Children/Adults	Yes	No prohibited activities, including criminal history Must be legal U.S. resident Landlord must approve in writing in advance May not be added if unit will be overcrowded, but family may transfer to add permanent foster children/adults
Live-in Aide	Yes	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 May not be added if they may negatively impact the family

Chapter 12 - TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

HACSD Policy

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

If an owner rent increase or a family income decrease results in an eligible HAP, 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.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

HACSD Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances:

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

HACSD Policy

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 request to move will be denied.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the HACSD will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in

section 12-II.C. In making its decision, the HACSD will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, the HACSD may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

HACSD Policy

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's eligible immigration status is pending.

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 terminate or prorate as applicable.

The HACSD may terminate the family's assistance if it is apparent that the applicant or participant deliberately provided incomplete, false, or incorrect information.

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 terminate the family's assistance, if it is apparent that the applicant or participant deliberately provided incomplete, false, or incorrect information.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

HACSD Policy

The HACSD will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

HACSD Policy

Current HACSD Program participants who became subject to the lifetime state sex-offender registration requirement prior to June 25, 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.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The PHA must immediately terminate program assistance for deceased single member households.

HACSD Policy

The HACSD will allow the owner to retain the HAP through the end the month the death of the sole member occurred.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents

- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

HACSD Policy

The HACSD will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

For participants, *Currently engaged in* is defined as anytime a members or members of the household engaged in prohibited activities while the participant was on the program.

The HACSD will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACSD will terminate assistance 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.

The PHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record of arrest(s) will not be used as sole the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

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

Drug-related criminal activity is defined by HUD as 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.

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.

HACSD Policy

The HACSD will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

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 Women Act (VAWA).

> 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.

The HACSD will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the HACSD will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the HACSD may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act of 2013 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation [FR Notice 12/29/14].

HACSD Policy

The HACSD ***will*** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies. 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 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 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 ***may*** terminate assistance 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 consider extenuating circumstances in making its determination.

Any PHA has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the PHA.A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

The family 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 circumstances may be considered for missed appointments or deadlines:

Medical emergency;

Incarceration;

Family emergency.

The family will be given two opportunities before a notice of termination is issued. The family must call to reschedule a missed appointment and, if not, a termination of assistance notice may be issued. The HACSD may rescind the notice if the family calls to reschedule the appointment.

The HACSD may rescind a termination 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.

In making its decision to terminate assistance, the HACSD will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the HACSD may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

HACSD Policy

If the family is absent from the unit for more than 180 consecutive calendar days, (or 12 months, depending on the HAP contract used) the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F. The HACSD may not enter into a HAP contract if the family is ineligible for assistance.

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

HACSD Policy

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. 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 the payments standards exceed 90% of the current SAFMR;

2. Reduce its subsidy standards;
3. Eliminate exceptions to its subsidy standards;
4. Deny permission to move to higher cost units;
5. 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 contract 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.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

HACSD Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HACSD request.

Repayment of Family Debts

HACSD Policy

If a 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 repays the amount in full or 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. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

HACSD Policy

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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. The HACSD will make an effort to obtain credible evidence, as necessary.

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.

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

HACSD Policy

The HACSD will consider the following facts and circumstances when making its decision to terminate 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 effect that 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 PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

Any statements made by witnesses or the 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 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.

A member of a 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 a participant submits documentation, a designated committee will review the information and make a recommendation whether or not a termination notice should be issued. In appropriate circumstances the family may be offered a stipulated agreement in lieu of a 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 participant does not dispute the accuracy or relevance of the criminal information or upon committee recommendation, a termination notice will be mailed to the participant. A participant will be afforded the right to an Informal Hearing as outlined in Chapter 16.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HACSD Policy

When 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).

12-II.E. 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. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of

this plan.

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)].

HACSD Policy

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]

HACSD Policy

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 HACSD 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.

<u>HACSD Policy</u>

The HACSD will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the HACSD will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the HACSD does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD- 52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

HACSD Policy

Whenever a family's assistance will be terminated, the HACSD will send an HACSD written notice of termination to the family and to the owner and advise the participant they will have 14 days from the date of the notice to request an informal hearing.

The notice will contain:

The effective date of the action;

The family's right to request an informal hearing;

The deadline for the family's informal hearing request;

A full explanation of the reasons(s) for termination, 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 termination of assistance.

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.

The HACSD will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA 2013 expands notification requirements to require PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

HACSD Policy

Whenever the HACSD decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The HACSD will request that a family member wishing to claim protection under VAWA notify the HACSD, preferably in writing, within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

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.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY

[24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

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 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under 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 in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

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 (see section 12-II.E).

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 that, in the case of the State of New Jersey, is a high misdemeanor; 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.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the 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.

Other Good Cause

During the initial lease term, 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. 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.

<u>HACSD Policy</u>

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.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

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 may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

HACSD Policy

The owner should specify lease violations and cite the ways the tenant has violated the lease as documentation for the HACSD's decision regarding termination of assistance.

If the eviction action is finalized in court, the owner must provide the HACSD with documentation related to the eviction, including notice of the eviction (lockout) date, as soon as possible.

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.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY

[24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C.13661). For this purpose, the owner may require the tenant 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.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

HACSD Policy

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 Program Coordinator, 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 Program Coordinator must approve the release of any information in accordance with the regulations [24 CFR 5.903, 24 CFR 5.905].

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

The term of the HAP contract between the HACSD and the owner is the same as the term of the lease. The HAP contract terminates when the lease terminates, the HACSD terminates program assistance for the family, or when the owner has breach the HAP contract.

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 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.

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.

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.

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.

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.

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA 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 and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

  HACSD Policy

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

  HACSD Policy

  The family must allow the owner access to the premises to make repairs after reasonable notice is given.

- The family must not commit any serious or repeated violation of the

  lease. HACSD Policy

  The HACSD will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

  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 un-inhabitability since it is a family responsibility under the program (24 CFR 982.515) to pay the family share of the rent.

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.

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.

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

  HACSD Policy

  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 PHA 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 composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

  HACSD Policy

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HACSD will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  HACSD Policy

  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 supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

  HACSD Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater

than 14 calendar days. Written notice must be provided to the HACSD at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

  HACSD Policy

  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.

- Family members must 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 other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13 - OWNERS

INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

> ***Part I: Owners in the HCV Program***. This part discusses the role of an owner in PHA’s HCV program and highlights key owner rights and responsibilities.
>
> ***Part II: HAP Contracts***. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB]

Recruitment

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

HACSD Policy

All HACSD activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HACSD will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The HACSD will give special attention to helping new owners succeed through activities such as:

- Providing information to owners of applicable legislative changes in program requirements.
- Encouraging owners of decent, safe and sanitary housing units to lease to Section 8 families.
- Promoting participation by owners of suitable units located outside areas of high poverty or minority concentration.
- Conducting periodic meetings with owners, upon request, to improve owner relations and to recruit new owners.
- Initiating personal contact with private property owners and managers by telephone, or, upon request, at informal discussions and meetings.
- Offering printed materials to inform owners and managers of the opportunities available under the program.
- Actively participating 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 organization, and public agencies which have an interest in housing for low-income.
- Provide the owner with a designated HACSD contact person.

Coordinate inspection and leasing activities between the PHA, the owner, and the family.

Initiate telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

Provide other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

HACSD Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACSD. The PHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet. The list may include, if available, landlords willing to lease units or agencies able to help families find units outside areas of poverty or minority concentration.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease- up and throughout the family's tenancy.

The PHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the PHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family [24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1)]

13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB]

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

> <u>HACSD Policy</u>
>
> 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.

Conflict of Interest [24 CFR 982.161; HCV GB]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include the following [HCV Guidebook]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;

- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB].

HACSD Policy

The HACSD will refuse to approve a request for tenancy if the HACSD becomes aware that any of the following are true:

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 not 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.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

HACSD Policy

The HACSD will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

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.

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and owner must execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner

- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

HACSD Policy

Owner Payments

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 10th 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.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form

HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

HACSD Policy

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.

Termination of HAP Payments [24 CFR 982.311(b)]

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

HACSD Policy

The owner must inform the HACSD when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HACSD when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HACSD with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HACSD will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the HACSD of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection

with any federal housing program

- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

HACSD Policy

The PHA will evaluate all information and documents available to determine if the contract has been breached.

In determining an appropriate remedy for a breach of contract, the PHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;

- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

HACSD Policy

The PHA may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook].

HACSD Policy

In most cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACSD gives written notice to the owner. 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. The owner is not entitled to any housing assistance payment after this period, and must return to the HACSD any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

HACSD Policy

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 in accordance with the policies in Chapter 9.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

Chapter 14 - PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

HACSD Policy

The HACSD management and staff will employ various methods and practices 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 proving clear and concise program education to eliminate violations that occur as a result of a misunderstanding of the program rules and requirements.

The HACSD will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5. 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.

The HACSD will provide each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

Staff will explain all required forms and will review the contents of all certification documents prior to the participants signature to affirm that all information provided is true, complete, and correct.

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.

As needed, HACSD staff will provide information explaining any changes in HUD regulations or HACSD policy that affect program participants. As part of the recertification paperwork, all adults are required to sign an authorization for the release of information and the "Statement of Responsibilities" form.

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 (HCV) 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.

Owners may attend informational workshops held periodically to orient owners on program rules and requirements.

Information and videos are shared with participating families and owners through social media, and email distribution lists. Staff may also share information at community events and speaking engagements.

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.

The HACSD will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

HACSD Policy

Prior to initial certification and at the completion of annual recertification, a number of files will be randomly selected for review to ensure the eligibility determination 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 singed file documents

- Form for signatures and correct dates
- Rent reasonableness documentation
- Records of successful HQS inspections completed prior to execution of HAP contracts

In addition to the SEMAP quality control requirements, the HACSD will employ a variety of methods to detect errors and program abuse.

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 records bulletins.

The HACSD routinely will use HUD and other non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the PHA.

- The HACSD staff will review and follow up on EIV reports of multiple subsidies, new hires and debts owed on a quarterly basis or before admission to the program.
- Inquiries to state wage and employment record-keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinney 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 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 appears to be living above its means, such as having expenditures exceeding the participant's reported income with no plausible explanation is given as to how the participant is receiving the income to cover the reported expenses
  - Upon allegations of unreported income
  - Upon an inspection that indicates the family's unexplained acquisition of expensive items, such as furniture, electronics, vehicles or boats

Independent Audits and HUD Monitoring

HACSD Policy

The PHA will use the results reported in any Independent Public Audit or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

HACSD Policy

The HACSD will encourage staff, program participants, and the public to report possible 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)

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 still not resolved, to the Program Coordinator.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

HACSD Policy

Participating families, owners and the public are encouraged to report suspected abuse to the HACSD at the contact information listed above. 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 the HACSD 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.

Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

HACSD Policy

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.

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.

A credit bureau inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

Staff may request information from the DMV to verify current address and vehicle ownership.

The HACSD may routinely conduct criminal history verification of program participants on a regular or random basis.

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/or former employers may be contacted to verify wages that may not have been previously disclosed or were misreported.

Witnesses may be interviewed regarding facts pertaining to the HACSD's review.

Staff may go out into the field and/or conduct a home visit to gather information to substantiate or clear the allegation.

Investigators, caseworkers or representatives of other agencies may be contacted.

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.

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.

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.

The HACSD will base its evaluation on a preponderance of the evidence collected during its investigation. 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.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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);

When 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.

Consideration of Remedies

All errors and instances of program abuse must be corrected. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HACSD Policy

In the case of family-caused errors or program abuse, the HACSD will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

HACSD Policy

The PHA will inform the relevant party in writing of its findings and remedies. The notice will include (1) a description of the error or program abuse, (2) the remedies to be employed, and (3) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement.

HACSD Policy

The HACSD will notify the family and owner, in writing, of any change in portion of rent.

Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse.

Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB]

HACSD Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. 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.

PHA Reimbursement to Family [HCV GB]

HACSD Policy

The HACSD will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

HACSD Policy

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 HCV program funds in violation of HCV program requirements.

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the HACSD may terminate assistance, request repayment of any overpaid housing assistance, and refer the family file/record to the proper authorities for appropriate disposition, including prosecution.

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the PHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to the owner or a third party as an enticement for the third party to make false or misleading statements to the PHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

Unauthorized Persons

A family found to have unauthorized persons residing in the subsidized unit may 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.

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

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 violation 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.

A stipulated agreement must be issued for a family's first offense of unreported or untimely income.

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. The notice will contain the following language:

A description of the violation and the date(s);

Any amounts owed to the HACSD;

Term of repayment.

Intentional Misrepresentation 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 or her actions were wrong and if the participant willfully violated the family obligations under 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 or 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.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB].

HACSD Policy

In cases where the owner has received excess subsidy, the HACSD will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

HACSD Policy

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 payments after the family has vacated the unit;

Residing in the unit with an assisted family;

Renting to a family member without prior approval; or

Violating other program rules and regulations.

Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any HACSD programs.
- Refer the case to HUD-OIG and/or the local or state officials for criminal prosecution as described in section 14-II.E.

HACSD Policy

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.

14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program.

Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

HACSD Policy

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 minimum 20-day advance notice.

Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the program abuse is caused by PHA staff.

PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB].

Prohibited Activities

HACSD Policy

Any of the following will be considered evidence of program abuse by PHA staff: Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the PHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

Misappropriating or misusing HCV funds

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

HACSD Policy

When the PHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA

Chapter 15 SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY
[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

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.

The rent must be rent reasonable in accordance with the rent reasonableness policies in this Plan.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- ***Access:*** Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- ***Fire Safety:*** All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].

- ***Sanitary Facilities:*** At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

- ***Space and Security:*** An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead- based paint do not apply.

PART II: CONGREGATE HOUSING
[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. Other families are not eligible for this special housing type. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom.

Food service for residents must be provided.

HACSD Policy

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.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

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.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

The rent must be rent reasonable in accordance with the rent reasonableness policies in this Plan.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME
[24 CFR 982.610 through 982.614 and HCV GB]

15-III.A. OVERVIEW

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.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

HACSD Policy

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard on the HACSD payment standards schedule for the group home size. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any HACSD-approved live-in aide.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for each assisted occupant in a group home is the pro-rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes must be reasonable in accordance with the rent reasonableness policies in the Plan. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA will consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- ***Sanitary Facilities:*** A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- ***Food Preparation and Service:*** Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- ***Space and Security:*** Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- ***Structure and Material:*** To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- ***Site and Neighborhood:*** Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
    - Dangerous walks or steps
    - Instability
    - Flooding, poor drainage
    - Septic tank back-ups
    - Sewage hazards
    - Mud slides
    - Abnormal air pollution
    - Smoke or dust
    - Excessive noise
    - Vibrations or vehicular traffic
    - Excessive accumulations of trash
    - Vermin or rodent infestation, and
    - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV: SHARED HOUSING
[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

HACSD Policy

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. A resident owner of a shared housing unit may enter into a HAP contract with the HACSD. The resident owner may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the HACSD, a live-in aide may reside with the family to care for a person with disabilities. 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. A live-in aide may not be an owner.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

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.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard amount on the PHA payment standards schedule for the family unit size or the pro-rata share of the payment standard for the shared housing unit size. In the below example, a comparison will be made of the three-bedroom payment standards and 3/5 of the five-bedroom payment standard. The PHA will use as a payment standard the lower of the two.

If the PHA 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.

The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

Example: A family holds a 3-bedroom voucher. The family decides to rent 3 bedrooms of a 5-bedroom unit. The ratio would be 3/5.

The rent for the five-bedroom housing is $1500

The assisted family's contract rent is $900

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the lower of the utility allowance for the family unit size (voucher size) or the pro-rata share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals $200

The utility allowance for a 2-bedroom unit equals $100

The prorata share of the utility allowance is $150 (3/4 of $200)

The PHA will use the 2-bedroom utility allowance of $100.

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.

In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The PHA will ensure that all share housing units approved for the program are in compliance with all of the Housing quality Standards for shared housing, as regulated in 24 CF 982.618. The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- ***Facilities Available for the Family:*** Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- ***Space and Security:*** The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A zero-bedroom or one-bedroom unit may not be used for shared housing. Alternate sleeping areas will not be considered in shared housing.

PART V: COOPERATIVE HOUSING
[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

HACSD Policy

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).

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The reasonable rent in cooperative housing is determined in accordance with the HCV 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 HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. 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 HCV rent adjustments described in the rent Chapter 8 of this Plan.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to HCV limitations on rent to owner. The HAP will be determined in accordance with the standard HCV guidelines in this Plan.

HACSD Policy

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.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. 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 Chapter 8 of this Plan.

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV- assisted families may occupy manufactured homes in two different ways.

1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.
2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

   HACSD Policy

   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.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

Rent to Owner

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.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR

982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a manufactured homeowner 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.

Utility Allowance

HACSD Policy

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.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid unities.

Amortization Costs

The monthly payment made by the family to repay the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the repayment cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the repayment cost if monthly payments are still being made to finance the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

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.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

The HACSD has a HUD waiver for the tie-down requirement for manufactured homes.

PART VII: HOMEOWNERSHIP
[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

The PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

New applications for the Housing choice Voucher Homeownership Program are not being accepted.

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.

15-VII.B. FAMILY ELIGIBILITY [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.

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

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.

15-VII.D. 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 must meet HUD's "eligible housing" requirements. The unit may not be any of the following:

- A public housing or Indian housing unit;
- A unit receiving Section 8 project-based assistance;
- A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
- A college or other school dormitory;
- On the grounds of penal, reformatory, medical, mental, or similar public or private institutions;
- A manufactured home in a park, with the exception noted above.

The HACSD must not approve 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.

15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

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.

15-VII.F. HOMEOWNERSHIP COUNSELING [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.

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the HACSD jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low- income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The HACSD may not commence monthly homeownership assistance payments for a family until the HACSD has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The 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 a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the HACSD a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and

affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

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.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

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.

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 PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.

Annual Activities

Payment Standard Changes

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.

Annual and Interim Examinations

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 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.

Family Obligations

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.

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of

20 years or longer; or

- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least six months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. 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, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home. The payment standard may never be below the payment standard applicable at the time of the 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 (not including cooperatives) only include amounts allowed by the HACSD to cover:

- Principal and interest on initial 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.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

The HACSD will no longer accept incoming portables into its Homeownership Program.

15-VII.M. 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 to a new unit with continued voucher or homeownership assistance:

- If the PHA has insufficient funding to provide continued assistance.

- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the HACSD's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14. 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 voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage.

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 Homeowner 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.

Chapter 16 - PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE
[24 CFR 982.155]

The PHA must maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year.

If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve and may direct the PHA 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 UNP account without specific approval.

HACSD Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed $100,000 per occurrence without the prior approval of the PHA's Board of Commissioners

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

HACSD Policy

The payment standard and utility allowance schedules are available for review on the HACSD website, by mail and at the HACSD's office during normal business hours.

The HACSD will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

HACSD Policy

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.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high [24 CFR 982.503(g)].

HACSD Policy

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 [24 CFR 982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

<u>HACSD Policy</u>

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.

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined 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. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

Utility Allowance and Utility Reimbursement Payments

HACSD Policy

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.

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.

When families, including mobile home owners and HCV 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.

Air Conditioning

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].

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.

Utility Allowance Revisions

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.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the "informal review." For participants (or applicants denied admission because of citizenship issues), the appeal process is called an "informal hearing." PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS [24 CFR 982.554, 60, no. 127 (3 July 1995): 34690]

Federal Register

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" and need not be as elaborate as the informal hearing requirements.

Decisions Subject to Informal Review

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)].

- Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:
- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

HACSD Policy

The HACSD will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

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, or an employee of the HACSD who is at or above the level of Housing Specialist I, but not the employee who made the determination.

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

HACSD Policy

A request for an informal review must be made in writing and delivered to the HACSD either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACSD's notification of denial of admission.

The HACSD will ensure applicants receive all the rights afforded by laws and regulations. The HACSD shall schedule the informal review within 30 days of the family's request and conduct the review within 60 days of the date the request was 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.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

HACSD Policy

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 and the family may present evidence and witnesses. An attorney or other representatives may accompany the family at the family's own expense.

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 will be granted only if there is evidence that indicates the postponement is necessary due to reasons beyond the control of 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 orally or in writing prior to the scheduled informal review.

The person who conducts the meeting will be a designee of the Intake Supervisor or an employee who is at or above the level of Housing Specialist I meeting the eligibility criteria outlined in this section.

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

HACSD Policy

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance.

The validity of the evidence. The HACSD will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

The HACSD will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 20 days of the informal review.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified. The informal review may be rescheduled as a reasonable accommodation if requested within 30 days from the date of the Notice of Denial of Informal Review Request.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

*Circumstances for which an informal hearing is **not** required are as follows:*

- Discretionary administrative determinations by the PHA

  <u>HACSD Policy</u>

  - Determination not to grant a reasonable accommodation
  - Determination not to approve additions to the household, including a live-in aide
  - Determination not to grant an increase in Voucher size
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

HACSD Policy

In cases where the HACSD makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the HACSD.

A brief statement of the reasons for the decision, including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the HACSD's decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing. To whom the hearing request should be addressed.

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.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

HACSD Policy

A request for an informal hearing must be made in writing and delivered to the HACSD either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the HACSD's decision or notice to terminate assistance.

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 ten calendar days in advance. If the family fails to notify the HACSD in writing at least ten calendar 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 ten calendar days in advance;

The family's requirement to provide to the HACSD, at least ten calendar days in advance, copies of any documents or evidence the family will present at the hearing.

Requests for Postponement

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

Verification of the reason(s) must be provided to the HACSD in writing and must cover the hearing date and demonstrate good cause before a new hearing will be scheduled.

A reasonable accommodation request based on a family member's disability must be provided orally or in writing prior to the scheduled informal hearing.

If the family does not appear within 20 minutes of the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HACSD within seven calendar days of the scheduled hearing date. The HACSD will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

<u>HACSD Policy</u>

Family's may, during or before the hearing:

Present written or oral objections to the HACSD's determination.

No sooner than ten calendar days after the date of the notice of informal hearing and no later than ten calendar 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.

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 ten calendar 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.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

HACSD Policy

The family must notify the HACSD in writing at least ten calendar days in advance. The HACSD reserves the right to cancel and reschedule the hearing if timely advance notification is not received.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

HACSD Policy

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, meeting the eligibility criteria outlined in this section. Informal hearings regarding this subject will be more informal as otherwise outlined and may be conducted over the telephone or in person.

For informal hearings involving termination of assistance for any reason, the HACSD may appoint the following to serve as hearing officers:

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.

Attendance at the Informal Hearing

HACSD Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A PHA representative(s) and any witnesses for the PHA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability

Documents and witnesses not provided to the HACSD at least ten calendar 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.

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

HACSD Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR 982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

HACSD Policy

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 the 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.

There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Procedures for Rehearing or Further Hearing

HACSD Policy

If the family misses an appointment or deadline ordered by the hearing officer, the action of the HACSD will take effect and another hearing will not be granted. A reasonable accommodation may be requested for a disability related reason within 30 days of a missed appointment or deadline.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

HACSD Policy

In rendering a decision, the hearing officer will consider the following matters:

PHA Notice to the Family: The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

PHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the PHA no later than 20 days after the hearing. A copy of the hearing decision will be issued promptly to the family. The report will contain the following information:

Hearing information:

Name of the participant;

Date, time and place of the hearing; Name of the hearing officer;

Name of the PHA representative; and Name of family representative (if any).

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.

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.

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Issuance of Decision [24 CFR 982.555(e)(6)]

A copy of the hearing must be furnished promptly to the family.

<u>HACSD Policy</u>

The hearing officer will mail a "Notice of Hearing Decision" to the PHA. This notice will be sent by first-class mail. The participant will be mailed the "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in the PHA's file.

Effect of Final Decision [24 CFR 982.555(f)]

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

HACSD Policy

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the HACSD will mail a "Notice of Final Decision" to the participant within 30 days of the decision. The "Notice of Final Decision" will be sent by first-class mail.

All requests for an informal hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the 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 Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

HACSD Policy

The HACSD will notify the family in writing of the results of the USCIS secondary verification within 10 days of receiving the results.

The family must provide the HACSD with a copy of the written request for appeal and proof of mailing within 30 days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

HACSD Policy

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.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

HACSD Policy

The family will be allowed to copy any documents related to the hearing at its own expense. The family must request discovery of PHA documents no later than ten days prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to, provide a transcript of the hearing.

HACSD Policy

The HACSD will provide a transcript of an audio taped hearing if requested within 90 days of the hearing

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

HACSD Policy

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.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

HACSD Policy

The HACSD will communicate program guidelines to owners and families so as to minimize HACSD overpayments. The HACSD will clearly document in the tenant file the amount and nature of owner or family debts and the method of calculation. Owners and families may receive copies of all relevant documentation regarding their debts, upon request. When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HACSD holds the owner or participant liable to return any overpayments to the PHA.

The HACSD will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

The HACSD will use a variety of collection methods to recover debts, including, but not limited to:

Requests for lump sum payments

Small claim or civil court actions

Payment agreements

Termination of family program participation

Reduction in HAP to owner

Abatements

Collection agencies

Referrals to the County Department of Revenue and Recovery

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

HACSD Policy

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.

Family Debts to the PHA

HACSD Policy

Any amount owed to the HACSD by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the HACSD will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HACSD will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Administrative Errors

If the HACSD discovers that an administrative error resulted in an overpayment of assistance, the error will be corrected with a 30-day advance notice.

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.

Payment Thresholds

Notice PIH 2017-12 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2017-12 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HACSD Policy

The HACSD has established the following policies for repayment of debts:

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 stipulation agreements for family obligation violations on file as a second offense;
- The unreported gross income was less than $15000; and
- The family did not deliberately provide false, misleading, incomplete, or incorrect information to the HACSD.

The family may be offered a repayment agreement of up to 36 months if the family pays a monthly minimum payment that is the greater of 10% of the family's gross monthly income or $50.

The monthly payment for an elderly or disabled family with excessive medical deductions is the greater of 10% of the family's adjusted monthly income and $40.

A repayment schedule longer than 36 months may be approved as a reasonable accommodation to a person with disabilities.

During the repayment period, a written request to re-evaluate the minimum monthly payment amount due to a reduction of income must be evaluated and pre-approved by a Supervisor.

Execution of the Agreement

HACSD Policy

Any repayment agreement between the HACSD and the family must be signed and dated by the HACSD and by all adults in the household.

Due Dates

HACSD Policy

All payments are due by the close of business on the date on which the payment was due according to the repayment agreement.

Late or Missed Payments

HACSD Policy

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 contact or made arrangements with the HACSD, the HACSD may:

- Issue a 30-day notice of intended action to terminate assistance and given an opportunity to become current on their payments.
- A family may not move 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 assistance in accordance with the polices in Chapter 12;
- Require the family to pay the balance in full;
- Refer the 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.

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 or not the debt was written off.

No Offer of Repayment Agreement

HACSD Policy

The HACSD generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, if the amount owed by the family exceeds the federal or state threshold for criminal prosecution, or the family deliberately provided false, misleading, incomplete, or incorrect information to the HACSD.

Repayment Agreements Involving Improper Payments

Notice PIH 2017-12 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement

  and may result in termination of assistance.

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS

[24 CFR 985.3 and form HUD-52648]

SEMAP Indicators
Indicator 1: Selection from the waiting list
Indicator 2: Rent reasonableness
Indicator 3: Determination of adjusted income
Indicator 4: Utility allowance schedule
Indicator 5: HQS quality control inspections
Indicator 6: HQS enforcement
Indicator 7: Expanding housing opportunities • Only applies to PHAs with jurisdiction in metropolitan FMR areas.
Indicator 8: FMR limit and payment standards
Indicator 9: Annual reexaminations
Indicator 10: Correct tenant rent calculations
Indicator 11: Pre-contract HQS inspections
Indicator 12: Annual HQS inspections
Indicator 13: Lease-up
Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances • Only applies to PHAs with mandatory FSS programs.
Success Rate of Voucher Holders • Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
Deconcentration Bonus Indicator

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

HACSD will 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 such records must be made available to HUD or the Comptroller General of the United States upon request.

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

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.

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.

Records Monitoring

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

- New applications and annual recertifications will be monitored for compliance with the regulations.
- 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.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

The PHA must adhere to record retention requirements for the HCV program as cited in this part.

16-VI.C. RECORDS MANAGEMENT

The PHA 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 PHA 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 PHA must keep:

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

The PHA 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 the PHA 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.

HACSD Policy

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

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

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.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or HACSD may release the information collected.

Upfront Income Verification (UIV) Records

The PHA must adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

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.

Criminal Records

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and 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.

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 PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file; the PHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This part addresses the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

HACSD Policy

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.

Upon notification by the owner, the HACSD will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA 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 elevated blood lead level and match this information with the names and addresses of families receiving HCV assistance.

HACSD Policy

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

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow the PHA to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If HACSD denies a family a portability move based on insufficient funding, HACSD will notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

HACSD Policy

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.

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.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

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.

If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS

[24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- 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 *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 *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 *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the 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
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

16-IX.C. 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.

HACSD Policy

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, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the HACSD's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

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 Policy

The 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 HACSD will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The HACSD will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The HACSD will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

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.

HACSD Policy

Whenever the HACSD 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.

Notification to Owners and Managers

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

HACSD Policy

The HACSD will provide owners and managers with information about their rights and obligations under VAWA.

16-IX.D. 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)]:

1. 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.
2. A federal, state, tribal, territorial, or local police report or court record, or an administrative record
3. 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 bona fide 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].

HACSD Policy

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). 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 will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

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

HACSD Policy

If presented with conflicting certification documents from members of the same household, the 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, the 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) the 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, the 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). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

HACSD Policy

If the 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 the HACSD may allow, the HACSD may deny relief for protection under VAWA.

16-IX.E. 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.

HACSD Policy

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.

EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

Housing Authority of the County of San Diego

Notice of Occupancy Rights under the Violence Against Women Act[1]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under the housing choice voucher program**,** you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the housing choice voucher program**,** you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

1 Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

2 Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Removing the Abuser or Perpetrator from the Household

The **Housing Authority of the County of San Diego (HACSD)** may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the **HACSD** chooses to remove the abuser or perpetrator, the **HACSD** may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the **HACSD** must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the **HACSD** must follow federal, state, and local eviction procedures. In order to divide a lease, the **HACSD** may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the **HACSD** may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the **HACSD** may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form or may accept another written or oral request.
3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

4. You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day **period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar- day period before you expressly request the transfer.

The **HACSD** will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The **HACSD's** emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The **HACSD** can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such

request from the **HACSD** must be in writing, and the **HACSD** must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The **HACSD** may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the **HACSD** as documentation. It is your choice which of the following to submit if the **HACSD** asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the **HACSD** with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the **HACSD** has agreed to accept.
- If you fail or refuse to provide one of these documents within the 14 business days, the **HACSD** does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms 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 abuser or perpetrator), the **HACSD** has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the **HACSD** does not have to provide you with the protections contained in this notice.

Confidentiality

The **HACSD** must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The **HACSD** must not allow any individual administering assistance or other services on behalf of the **HACSD** (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The **HACSD** must not enter your information into any shared database or disclose your information to any other entity or individual. The **HACSD**, however, may disclose the information provided if:

- You give written permission to the **HACSD** to release the information on a time limited basis.
- The **HACSD** needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted, and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted, and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the **HACSD** can demonstrate the above, the **HACSD** should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violation of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **Housing Authority of the County of San Diego, 3938 Ruffin Rd, San Diego 92023** or **the HUD Southern California Office, 300 N. Los Angeles St. # 4054, Los Angeles, CA 90012; telephone: (213) 894-8000.**

For Additional Information

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016- 11-16/pdf/2016-25888.pdf.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **Housing Authority of the County of San Diego, 3938 Ruffin Rd, San Diego, CA 92123.**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **Break the Silence against Domestic Violence, 1-855-281-1777.**

For 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.

For help regarding sexual assault, you may contact **Center for Community Solutions, 858-272-1767.**

Victims of stalking seeking help may contact **San Diego County Stalking Unit, 619-515-8900.**

Attachment: Certification form HUD-5382

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF U.S. Department of Housing OMB Approval No. 2577-0286 DOMESTIC VIOLENCE, and Urban Development Exp. 06/30/2017 DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

1. A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
2. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
3. At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use

in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Date the written request is received by victim:**

2. **Name of victim:**

3. **Your name (if different from victim's):**

4. **Name(s) of other family member(s) listed on the lease:**

5. **Residence of victim:**

6. **Name of the accused perpetrator (if known and can be safely disclosed):**

7. **Relationship of the accused perpetrator to the victim:**

8. **Date(s) and times(s) of incident(s) (if known):**

10. **Location of incident(s):**

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature_____Signed on (Date)
_____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

(HCV VERSION)

Attachment: Certification form HUD-5382

[Insert name of covered housing provider]

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Housing Choice Voucher Program

Emergency Transfers

The PHA 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),[3] the PHA 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.[4] 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.

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[3] Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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 the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA 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

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA 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

The PHA 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 you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit

quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you 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.

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

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

- **[Insert other programs the PHA provides, such as LIHTC or HOME]**

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

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.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING	**U.S. Department of Housing and Urban Development**	**OMB Approval No. 2577-0286** **Exp:06/30/2017**

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

1. ***You are a victim of domestic violence, dating violence, sexual assault, or stalking. If*** your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.
2. ***You expressly request the emergency transfer****.* Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.
3. ***You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit*****.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer; you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the

violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. **Name of victim requesting an emergency transfer:**

2. **Your name (if different from victim's)**

3. **Name(s) of other family member(s) listed on the lease:**

4. **Name(s) of other family member(s) who would transfer with the victim:**

5. **Address of location from which the victim seeks to transfer: _____**

6. **Address or phone number for contacting the victim:_____**

7. **Name of the accused perpetrator (if known and can be safely disclosed):_____**

8. **Relationship of the accused perpetrator to the victim:_____**

9. **Date(s), Time(s) and location(s) of incident(s):**

10. **Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____**

11. **Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**

12. **If voluntarily provided, list any third-party documentation you are providing along with this notice: _____**

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature_____Signed on (Date) _____

Chapter 17 - PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. The project may be owned by any individual, corporation, trust, partnership, non-profit entity, as well as by the PHA, excluding those sanctioned from participation.

HACSD Policy

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 2020-2024 Consolidated Plan. Project Based Vouchers may only be issued to projects located within the jurisdiction of the HACSD.

See the exhibits at the end of this chapter for information about projects to which the HACSD has attached PBV assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. Units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
- *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are 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.

HACSD Policy

The HACSD will not set aside units above the 20 percent program limit.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Many of the provisions of the tenant-based voucher program regulations [24 CFR 982] also apply to the Project Based Voucher (PBV) program. Consequently, many of the PHA 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.

HACSD Policy

Except as otherwise noted, 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. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program.

The HACSD has established the following subsidy standard for all PBV 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 requests for a reasonable accommodation.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- **PHA request for PBV Proposals**. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- **The PHA may select proposal that were previously selected based on a competition**. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21]

For certain public housing projects where the PHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the PHA may select a project without following one of the two processes above.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

The PHA's 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 PHA. The public notice procedures may include announcements via the PHA website, in publications of general circulation, via the PHA'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. Detailed application and selection information must be provided at the request of interested parties.

HACSD Policy

The procedures for submission of PBV proposals and for HACSD selection of PBV proposals will be outlined in the HACSD public notification of any Requests for Proposals (RFPs).

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.

PHA Notice of Owner Selection [24 CFR 983.51(d)]

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACSD Policy

The HACSD will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners who submitted proposals that were not selected. The selection date will be the date of the notification of selection.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

The PHA 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.

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.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA 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 an AHAP.

Subsidized Housing [24 CFR 983.54]

A PHA 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 the PHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS

[24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]

The PHA 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.

The PHA 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's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]

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; Notice PIH 2017-21]

As of April 18, 2017, 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

If 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, 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 (HAP contracts executed prior to April 18, 2017) may continue to use the former exceptions 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

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, 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.

HACSD Policy

The HACSD may allocate PBV assistance above the project cap for occupancy by families eligible to receive supportive services. Refer to the exhibits at the end of this chapter for a list of services that will be provided for each project.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(b), FR Notice 10/13/05]

This section is only applicable to pre-HOTMA projects as referenced above, whereby the HAP contract was executed prior to April 18, 2017, using the former supportive services statutory exemption. The supportive services requirement will continue to renew until otherwise agreed upon by the PHA and owner.

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.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

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.

HACSD Policy

The HACSD has PBV units that are subject to the per project cap exception and may project-base up to 100 percent of the units in these projects.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

HACSD Policy

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the PHA will give preference to sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the PHA may also consider the following in the granting preference where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those

found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA 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 PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, 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 PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA 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.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. 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.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA 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, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA 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.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis- Bacon wages to laborers and mechanics employed in the development of housing. The HUD- prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity

requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACSD Policy

The HACSD will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HACSD will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

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)].

17-V.B. HAP CONTRACT REQUIREMENTS

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 country, 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.

Execution of the HAP Contract [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term.

Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

Termination by PHA [24 CFR 983.205(c) and FR Notice 1/18/17]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the

terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant- based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant- based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.208(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

> HACSD Policy
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> The HACSD will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

7-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACSD Policy

The HACSD will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACSD will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move- out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

HACSD Policy

The HACSD will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

HACSD Policy

The HACSD will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3 or as otherwise specified in 24 CFR 983.2

Annual eligibility determination will be made of all families in units receiving project-based assistance.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the HACSD may use a single waiting list for the HACSD's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

HACSD Policy

The HACSD will establish and manage separate waiting lists for project-based assistance. 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.

If the HACSD determines a need for separate waiting lists, the HACSD will notify the public using one or more of the following methods:

- 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.

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. Applicants may designate a specified interest in one or both complexes.
- One list serves the Schmale Family Senior residence in Ramona.
- One list serves The Grove residence in Vista.
- One list serves the Villa de Vida residence in Poway.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list. The PHA's preference system will work in combination with requirements to match the characteristics for the family to the type of unit available. 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.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

HACSD Policy

Families will be selected from the waiting list in accordance with HACSD-established selection preferences identified in Chapter 4 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 Family Senior 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.
- ***Pine View PBV Complex –***
  - Category One – Families who live or work (see definition of working families) in the HACSD jurisdiction and have a specified interest in the Pine View PBV Complex within this designated waiting list
  - Category Two – Families who have a specified interest in the Pine View PBV Complex within this designated waiting list
  - 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 and have a specified interest in the Vista Terrace PBV Complex within this designated waiting list
  - Category Two – Disabled families* who have a specified interest in the Vista Terrace PBV Complex within this designated waiting list
  - 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.

- ***Villa de Vida PBV 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.

*must meet definition at the time of selection from the waiting list

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with "excepted units" for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

HACSD Policy

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 off of 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 of unit available. For example, if a vacancy occurs in a two-bedroom unit, applications will be selected based on established preferences as well as household size in accordance with subsidy standards.

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. The HACSD has established the following subsidy standard for all PBV 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 requests for a reasonable accommodation.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACSD Policy

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to promptly refer a sufficient number of families to the owner to fill vacancies.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period. If the PHA amends the contract the PHA will provide notice and the amendment to the HAP contract will be effective the first day of the month following the date of the PHA's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

HACSD Policy

The HACSD will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time

of the initial HQS inspection or before. The HACSD will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

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 Program Coordinator, 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 Program Coordinator 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 Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease. The tenancy addendum must include, word-for-word, all provisions required by HUD.

The PHA may review the owner's lease form to determine if the lease complies with program requirements.

HACSD Policy

The HACSD will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;

- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. Per the Administrative Plan, 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 the Administrative Plan. 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. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

HACSD Policy

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

Security Deposits [24 CFR 983.259]

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 lessor of legal limitations or the maximum amount indicated on the lease.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

HACSD Policy

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.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

HACSD Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HACSD will terminate the housing assistance payments at the expiration of this 30-day period.

The HACSD may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. families may request tenant-based Housing Choice Vouchers after one year from the date that the lease is fully executed. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance, if funding permits. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance. At that time, the next available tenant-based Housing Choice Vouchers or other assistance, will be offered to eligible families upon the discretion of the HACSD.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA 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.

HACSD Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the HACSD will provide several options for continued assistance.

The 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. The 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. The 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. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA 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 the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- 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

If 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, 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].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services,

the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family 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.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

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.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

HACSD Policy

The HACSD will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, the HACSD will provide written notice to the family and owner upon making the determination that the family no longer qualifies to reside in the excepted unit. The family will be given 90 days from the date of the notice to move out of the PBV unit. The PHA may approve additional extensions upon written request from the family as authorized by the appointing authority. The PHA will provide notification to the family of any decision to approve or deny a request for an extension.

If the family does not move out within this 90-day time frame or subsequent extensions, the PHA will terminate the housing assistance payments at the expiration of this 90-day period.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordable with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordable with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the HACSD must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the HACSD must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

<u>HACSD Policy</u>

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

HACSD Policy

The HACSD will not apply SAFMRs to the HACSD's PBV program.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACSD Policy

An owner's request for a rent increase must be submitted to the PHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HACSD Policy

The HACSD will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

> HACSD Policy
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> If the HACSD determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HACSD will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACSD will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner.

> HACSD Policy
>
> The HACSD will not provide for vacancy payments to the owner beyond the move-out month.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

HACSD Policy

The HACSD will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION
PINE VIEW

DEVELOPMENT INFORMATION

Development Name: Pine View Apartments

Address: 1101 Alturas Road, Fallbrook, CA 92028

HAP CONTRACT

Effective Date of Contract: 8-23-2019

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 15 Years

Expiration Date of Contract: 7-31-2034

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units		10	15				

Fixed or Floating: Floating

Accessible Units and Features: Pine View offers two designated ADA Accessible parking spaces. There have been five separate units modified for accessibility to include vinyl flooring throughout, retrofit showers instead of tubs and wheelchair access leading into these 1st floor apartments. A wheelchair accessible ramp leading up to Building 10 and specifically into Unit 10C was added in 2014.

Target Population: None

WAITING LIST AND SELECTION

Waiting List Type: One waiting list serves the Pine View complex in Fallbrook and the Vista Terrace complex in Vista. Applicants may designate a specified interest in one or both complexes.

Preferences: Same as HCV; Families will be selected in accordance with HACSD established selection preferences identified in Chapter 4 and as included in any MOU/MOA/HAP Contract Amendment between the HACSD and a PBV provider. Pine View will have weighted preferences as indicated:

- Category One – Families who live or work (see definition of working families) in the HACSD jurisdiction and have a specified interest in the Pine View PBV Complex within this designated waiting list.*
- Category Two – Families who have a specified interest in the Pine View PBV Complex within this designated waiting list.*

*must meet definition at the time of selection from the waiting list

Preference Verification: Same as HCV; see Chapter 4

Income Limit: Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: 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 4 remain applicable, including requests for a reasonable accommodation.

Utilities: The following utilities are paid by the tenant: Basic electricity (heating, cooking, and air conditioning.

Water, sewer, trash collection, water heating, stove, and refrigerator are paid for or provided by the Owner

EXHIBIT 17-2: PBV DEVELOPMENT INFORMATION
VISTA TERRACE

DEVELOPMENT INFORMATION

Development Name: Vista Terrace Apartments

Address: 987 Postal Way, CA 92083

HAP CONTRACT

Effective Date of Contract: 8-20-2013

HOTMA Requirements: Pre-HOTMA

Term of HAP Contract: 15 Years

Expiration Date of Contract: 7-31-2028

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units			29	6			

Fixed or Floating: Fixed

Accessible Units and Features: Yes

Target Population: Disabled or receiving supportive services

Excepted Units: 35

Supportive Services: 35

Disabled Units Yes

WAITING LIST AND SELECTION

Waiting List Type: One waiting list serves the Pine View complex in Fallbrook and the Vista Terrace complex in Vista. Applicants may designate a specified interest in one or both complexes.

Preferences: Same as HCV; Families will be selected in accordance with HACSD-established selection preferences for HCV identified in Chapter 4 as included in any MOU/MOA/HAP Contract Amendment between the HACSD and Vista Terrace. Vista Terrace will have weighted preferences as indicated:

- Category One- Disabled families who live or work (see definition for working families) in the HACSD jurisdiction and have a specified interest in the Vista Terrace PBV Complex.
- Category Two- Disabled families who have a specified interest in the Vista Terrace PBV Complex.

*must meet the definition at the time of selection from the waiting list

The HACSD will not process waiting list applications in a subordinate category before all waiting list applications in a superior category have been processed.

Preference Verification: Same as HCV; see Chapter 4

Income Limit: Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: 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 requests for a reasonable accommodation.

Utilities: The following utilities are paid by the tenant: Water, including hot water heating, Sewer, and Trash Collection.

Electricity for lights, appliances and heaters, cable, garbage disposal, dishwasher, electric range, range hood, and refrigerator are paid for or provided by the Owner.

EXHIBIT 17-3: PBV DEVELOPMENT INFORMATION
SCHMALE FAMILY SENIOR RESIDENCE

DEVELOPMENT INFORMATION

Development Name: Schmale Family Senior Residence

Address: 430 16TH St. Ramona, CA 92065

HAP CONTRACT

Effective Date of Contract: 7-12-2019

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 Years

Expiration Date of Contract: 6-30-2039

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units		50	11				

Fixed or Floating: Fixed

Accessible Units and Features:

Accessible Units: 7

Hearing/Vision impaired accessible units: 3

Handicap Parking Spaces: 6

Target Population: Elderly

Excepted Units: 46

Supportive Services: Yes, see Exhibit D of HAP Contract for full description. Services include:

- Social Services
- Mental Health Services
- Nurse Case Management
- Socialization Opportunities and Outings,

Elderly Units: Yes

WAITING LIST AND SELECTION

Waiting List Type: One waiting list services the Schmale Family Senior Residence Complex.

Preferences: Same as HCV; Families will be selected in accordance with HACSD established selection preferences identified in Chapter 4 and as included in any MOU/MOA/HAP Contract Amendment between the HACSD and Schmale Family

Senior Residence. Schmale Family Senior Residence will have weighted preferences as indicated:

- 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.

Preference Verification: Same as HCV; see Chapter 4

Income Limit: Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: 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 requests for a reasonable accommodation.

Utilities: The Owner shall provide the following utilities and appliances to the Senior household under the Lease: Hot water, gas, sewer/water, garbage, refrigerator, stove, and garbage disposal.

The following utilities will be paid by the tenant: Electricity (heating, cooking, air conditioning and other electric) and TV/Phone/Internet.

EXHIBIT 17-4: PBV DEVELOPMENT INFORMATION
THE GROVE

DEVELOPMENT INFORMATION

Development Name: The Grove Apartments

Address: 811 Civic Center Dr., Vista, CA 92084

HAP CONTRACT

Pending-Under Construction

Effective Date of Contract:

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 15 Years

Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units		20	4				

Fixed or Floating:

Accessible Units and Features:

Handicap-Accessible Parking Spaces: 6

Target Population: Elderly

Excepted Units: [Identify excepted unit types below or enter "None"]

Supportive Services: Yes, see Exhibit D of HAP Contract

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

Elderly Units: Yes

WAITING LIST AND SELECTION

Waiting List Type: One waiting list serves the Grove residence.

Preferences: Families will be selected from the waiting list in accordance with HACSD-established selection preferences identified in Chapter 4 of this Plan and as included in any MOU/MOA/HAP Contract Amendment between the HACSD and the Grove residence. The Grove residence will have weighted preferences as indicated:

- 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.

Preference Verification: Same as HCV; see Chapter 4

Income Limit: Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: 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 requests for a reasonable accommodation.

Utilities: [Enter in accordance with HAP contract Exhibit C-]

Tenant-paid utilities include electric heating, electric cooking, other electric and air conditioning.

EXHIBIT 17-5: PBV DEVELOPMENT INFORMATION
VILLA de VIDA

DEVELOPMENT INFORMATION

Development Name: Villa de Vida

Address: 12341 Oak Knoll Road, Poway, CA 92064

HAP CONTRACT

Under Construction

Effective Date of Contract: Pending

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 Years

Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units							

Fixed or Floating: TBD 53 Units

Accessible Units and Features: [Identify which units are accessible and describe accessibility features or enter "None"]

Target Population: Individuals with developmental disabilities

Excepted Units: [Identify excepted unit types below or enter "None"]

Supportive Services: Yes, see Exhibit D of HAP Contract.

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.

Elderly Units:

WAITING LIST AND SELECTION

Waiting List Type: One waiting list serves the Villa de Vida Residence.

Preferences: Families will be selected from the waiting list in accordance with HACSD-established selection preferences identified in Chapter 4 of this Plan and as included in any MOU/MOA/HAP Contract Amendment between the HACSD and Villa de Vida, except:

- 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.

Preference Verification: [Enter “Same as HCV; see Chapter 4” or describe for each preference listed above. If different from HCV, note in Section 17.1.B of this policy.]

Income Limit: Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: 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 requests for a reasonable accommodation.

Utilities: [Enter in accordance with HAP contract Exhibit C]

Chapter 18 - SPECIAL PROGRAMS

INTRODUCTION

This chapter contains information about the HACSD's special programs, including any special claims allowed by the program. A family may choose to rent other eligible housing in accordance with the requirements of the specific program.

Part I: Mainstream Voucher Program. This part includes a description of the Mainstream Voucher Program.

Part II: Moderate Rehabilitation Program***.*** This part includes a description of the Moderate Rehabilitation (Mod Rehab) Program.

Part III: HOPWA. This part includes a description of the Housing Opportunities for Persons with AIDS Program.

Part IV: VASH. This part includes a description of the Veteran's Affairs Supportive Housing program.

Part V: Foster Youth to Independence Tenant Protection Voucher Program (FYI). This part includes a description of the Foster Youth Initiative Tenant Protection Voucher Program (FYI).

PART I: MAINSTREAM VOUCHER PROGRAM
[24 CFR 982]

18-I.A. OVERVIEW

The Mainstream Voucher Program is a sub-set of the Housing Choice Voucher (HCV) program. The HCV program competitively awards vouchers to PHAs to service persons with disabilities. Aside from targeted funding and serving a special population, Mainstream Vouchers are administered using the same rules as regular voucher assistance in that Mainstream Vouchers are regulated under the same program requirements as the HCV Program.

Mainstream Vouchers, also formerly known as Mainstream 5-Year (MS5) or Section 811 Vouchers, are tenant-based vouchers that serve a special population of households. All Mainstream Vouchers will now serve households that include a non-elderly person(s) with disabilities, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old at the effective date of the initial HAP contract.

Existing families issued Mainstream Vouchers prior to 2019 have different eligibility criteria than 2019 Mainstream vouchers. This Part will outline the specific criteria for each type of funding.

18-I.B. ADMINISTRATION

Existing Mainstream Voucher Program

The HACSD administers Mainstream vouchers that were issued prior to the 2019 Appropriation Act clarification and are designated for disabled families (head, spouse, or sole member is disabled). The HACSD assists the families on this program with resource referrals and provides additional assistance to the families to enable them to obtain and retain assisted housing. Unless otherwise noted, these vouchers are administered in conformance with this Plan.

2019 Mainstream Voucher Program

The HACSD received a voucher allocation under the 2019 Mainstream Voucher Program. The HACSD will administer these vouchers in accordance with the 2019 Appropriation Act designating Mainstream Vouchers for families with a non-elderly disabled household member. The HACSD assists the families on the program with resource referrals and promotes voluntary supportive services to increase program access among persons with disabilities. Unless otherwise noted, these vouchers are administered in conformance with this Plan.

The 2019 Appropriations Act clarifies that all existing Mainstream voucher assistance shall be provided to non-elderly persons with disabilities upon turnover [Notice PIH 2019-08, Notice PIH 2020-01].

18-I.C. ELIGIBILITY

Existing Mainstream Voucher Program

The participants for this program have been selected from the HCV waiting list and eligibility is contingent on the head of household, spouse or sole member being a person with disabilities.

Existing families receiving Mainstream Vouchers, where the eligible family member is now age 62 or older, will ***not*** “age out” of the Mainstream Voucher Program as long as the family was eligible on the day it was first assisted under a HAP contract.

2019 Mainstream Voucher Program

The participants for this program will be selected from the HCV waiting list. Households that receive assistance must include a non-elderly (at least 18 and not yet 62 years of age) person with disabilities. Applications may be received from the applicant or on behalf of the applicant by the County of San Diego, Health and Human Services Agency and will be placed on the HCV waitlist as of the date and time of the application or referral.

Admission Preferences

HACSD applies local preferences in determining the order in which Mainstream Vouchers are awarded to eligible families as referenced in Chapter 4.

Definitions

If the applicant meets the criteria for special local preference category 4 the following definitions and verification apply:

Institution or Segregated Setting

An institution or segregated setting is defined as a mental institution or hospital setting.

Verification

For verification of institutionalization or other segregated settings, the HACSD will accept a statement from a medical professional who is familiar with the applicant and who can attest that the individual would be able to live on their own if housing assistance and other resources were available.

The individual must have been in residence in the segregated setting for at least 30 days, and has either;

1. Exited within 90 days from the selection date, or;
2. Will exit within 30 days of being selected from the waiting list.

Homeless

Applicants must meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3. at the time of selection.

Verification

For verification of homelessness, the HACSD will accept appropriate documentation listed under 24 CFR 582.301.

18-I.C. ACCOMMODATIONS

Mainstream voucher holders in both programs are provided with resources with regard to unit accessibility and any other needs requested in order to fully utilize the program.

Mainstream voucher holders have the same bedroom payment standard as with the HCV program and may request a higher payment standard if needed as a reasonable accommodation in order to fully utilize the program. See Chapter 2 for reasonable accommodation policies and procedures.

PART II: MODERATE REHABILITATION PROGRAM
[24 CFR 882]

18-II.A. OVERVIEW

The Moderate Rehabilitation Program provides project-based rental assistance to low income families. The program was repealed in 1991 and no new projects are authorized for development. Assistance is limited to properties previously rehabilitated pursuant to a housing assistance payments (HAP) contract between an owner and a Public Housing Agency (PHA).

18-II.B. INTRODUCTION

The HACSD administers the 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.

18-II.C. MOD REHAB WAITLIST [24 CFR 882.514]

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 the HACSD is unable to refer a sufficient number of interested applicants on the waiting list to the owner within 30 days of the owner's notification to the PHA of a vacancy, the owner may refer low-income families to the PHA to determine eligibility. The HACSD may accept the 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.

18-II.D. 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.

18-II.E. SPECIAL CLAIMS

The Mod Rehab program 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.

Claim Types

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

Vacancy loss may be paid if the move was in violation of the notice requirements in the lease, or the result of an eviction.

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
    - Accepting 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.

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 about 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.

Move-out and Close-Out Inspections

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.

18-II.F. PROCESSING CLAIMS

Security Deposit

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.

Claims Review

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.

18-II.G. 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 calendar days from the initial notice of action date.

18-II.H. 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

PART III: HOPWA
[24 CFR 574]

18-III.A. OVERVIEW

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.

18-III.B. ADMINISTRATION

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.

HOPWA is administered by the HACSD with guidance and input from the HIV Housing Committee and the City of San Diego and 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.

18-III.C. REQUIREMENTS

Waitlist

Participants may reside anywhere in San Diego County. The participants for this program are selected from the HOPWA waiting list based on established priorities and date and time of application. Priority will be given to persons as described in the Count of San Diego Housing and Community Development Services' HOPWA Tier Policy as may be amended from time to time.

Eligibility

Eligibility is contingent on the head of household, spouse, or sole member being a person with HIV/AIDS.

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.

Criminal Prohibitions

Criminal prohibitions do not apply at admission. Once admitted HOPWA TBRA participants will follow the same requirements as HCV participants regarding criminal violations as outlined in this Plan.

Rent Calculation

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 not subject to a minimum rent requirement.

Subsidy Standards

Subsidy standards are as follows: one bedroom is assigned for the head of household and spouse/co-head and additional bedrooms are awarded for each additional two household members. All other guidelines outlined in this Plan regarding subsidy standards will apply.

Inspections

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.

18-III.D. TERMINATIONS

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.

PART IV: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH)
[24 CFR 982]

18-IV.A. OVERVIEW

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.

18-IV.B. ADMINSTRATION

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.

The HACSD has adopted the published HUD-VASH guidelines and will continue to develop separate policy documents for the HUD-VASH program as needed.

18-IV.C. ELIGIBILITY

Verification

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 or 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.

Income

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.

Prohibitions

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.

18-IV.D. LEASING

Voucher

The initial term of VASH vouchers will be a minimum of 120 days in length.

Inspections

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.

18-IV.E. RENT CALCULATION

Payment Standards

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.

18-IV.F. VASH CASE MANAGEMENT REQUIREMENTS [Federal Register, Vol. 77, No. 57, dated Friday, March 23, 2012]

Non-Compliance Terminations

As a condition of HCV rental assistance, a HUD-VASH eligible family must receive case management services from the local VAMC. 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.

Continued Participation

When there is a VAMC determination that the participant family no longer requires case management, the HACSD may, at its option, 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.

18-IV.G. PORTABILITY

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.

18-IV.H. PROJECT-BASED VOUCHER PROGRAM [24 CFR PART 983, Notice PIH 2017-21, FR Notice 1/18/2017]

The HACSD reserves the right to utilize project-based vouchers to address the specific housing needs of HUD-VASH families. The Housing Opportunity Through Modernization Act of 2016 (HOTMA) authorizes PHAs to project-base HUD-VASH vouchers without requiring additional HUD approval.

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.

PART V: FAMILY UNIFICATION PROGRAM (FUP)

18-V.A. OVERVIEW

The Family Unification Program (FUP) provides Section 8 rental assistance to families whose lack of adequate housing is a primary cause of the separation, or imminent separation, of a child or children from their families. FUP provides rental assistance through the Housing Choice Voucher Program (HCV) to families who meet the eligibility criteria and are certified and referred by the public child welfare agency.

18-V.B. ADMINSTRATION

FUP is administered in accordance with applicable HCV program regulations and requirements, as set forth in 24 CFR 982.

PHAs administer the FUP in partnership with Public Child Welfare Agencies (PCWAs) who are responsible for referring FUP families and youths to the PHA for determination of eligibility for rental assistance. Once the PCWA makes the referral the PHA places the FUP applicant on its waiting list, determines whether the family or youth meets HCV program eligibility requirements, and conducts all other processes relating to voucher issuance and administration.

In addition to rental assistance, supportive services must be provided by the PCWA to FUP youths for at least the initial 18 months in which the youth participates in the program. Examples of the skills targeted by these services include money management skills, job preparation, educational counseling, and proper nutrition and meal preparation.

HACSD administers 37 FUP vouchers which will be prioritized and allocated between the two programs.

Coordination between the PHA, PCWA and the Continuum of Care (CoC) is required to identify and assist eligible families and youth.

<u>HACSD Policy</u>

The HACSD has a Memorandum of Agreement (MOA) with the County of San Diego HHSA's Child Welfare Services (CWS) and the Regional Task Force on the Homeless (RTFH) to identify FUP-eligible family and youth and receive PCWA certified referrals for FUP Vouchers.

CWS, in coordination with the RTFH, will identify FUP-eligible families and FUP-eligible youth and provide a written certification to the HACSD verifying eligible child welfare history. CWS will provide or secure 36 months of supportive services for FUP-eligible youth.

The HACSD will accept referrals from CWS, verify eligibility for HCV, and administer up to 37 FUP vouchers. This included monitoring FUP vouchers for eligible youth for a maximum of 36 months.

The HACSD may admit the FUP-eligible family or youth that is not on the HACSD's HCV waiting list or without considering the applicant's waiting list position.

18-V.C. ELIGIBILITY

The Family Unification Program (FUP) is a program under which Housing Choice Vouchers (HCVs) are provided to two different populations:

- Families* for whom the lack of adequate housing is a primary factor in:
  - The imminent placement of the family's child or children in out-of-home care, or
  - The delay in the discharge of the child or children to the family from out-of-home care.

**There is no time limitation on FUP family vouchers.*

- Youths* who are at least 18 years but not yet 24 years of age, and
  - Have left foster care**, or
  - Will leave foster care within 90 days, and
  - Are homeless or at risk of homelessness

* *Vouchers are available for a period not to exceed 36 months*

*** Exit status must have been from the age of 16 or older*

Note: Program limitations are subject to available waivers as authorized by HUD. See Chapter 1 regarding temporary policy exceptions.

<u>HACSD Policy</u>

HHSA Child Welfare Services (CWS) will certify applicants and make eligible referrals to HACSD based on the specialized referral criteria. HACSD will conduct the HCV program initial eligibility determination and ongoing program administration. The age criteria must be met at the time or referral *and* at the time of lease-up. HACSD will monitor program time limits pertaining to FUP-eligible youth vouchers.

Criminal History

A criminal history will be pulled for all adults at the time of initial eligibility and subject to the criminal prohibitions and consideration of circumstances as outlined in Chapter 3.

Targeted Funding

HACSD policies regarding application, waiting list and tenant selection contained in Chapter 4 of this Plan do not apply to FUP except as provided below:

Referred FUP candidates selected by CWS are admitted to the HCV program under the provisions of targeted funding, which provides tenant-based voucher assistance utilizing funds specifically allocated to FUP.

Briefings and Voucher Issuance

HACSD policies regarding briefing and voucher issuance contained in Chapter 5 of this Plan apply to FUP except as provided below:

Voucher Issuance

Upon CWS verification of minor children who will be returned to the FUP household, the bedroom size voucher to be issued to the household will be based on the number of family members that include the minor children being returned.

Portability

HACSD policies regarding portability contained in Chapter 10 of this Plan apply to FUP except as provided below:

> If the receiving PHA absorbs the family or youth into its regular HCV program, that family or youth becomes a regular HCV participant with none of the limitations of a FUP voucher.
>
> In the case of absorption, a FUP voucher would become available to the initial PHA, which must be used for another FUP eligible family or youth.
>
> If there is a billing arrangement, the initial and receiving PHA must work together to initiate termination of assistance upon expiration of the 36-month limit.

Chapter 19 - FAMILY SELF SUFFICENCY PROGRAM
[24 CFR 984]

INTRODUCTION

The Family Self-Sufficiency (FSS) is a voluntary program for HACSD Housing Choice Voucher Program participants who are committed to becoming economically self-sufficient.

Part I: Administration of the FSS Program. This part details the HACSD's Action Plan for administering FSS.

Part II: Affirmatively Furthering Fair Housing-FSS. This part explains how the PHA will further fair housing

PART I: ADMINISTRATION OF FSS

19-I.A. OVERVIEW

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.

19-I.B. INTRODUCTION

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.

19-I.C. ELIGIBILITY AND SELECTION

Family Demographics

The HACSD will select FSS participants from current Housing Choice Voucher participants.

In July 2019, there were 67 active FSS participants. They fall into the following categories:

HCV Participants	Household Type	FSS Participants
65%	Elderly/disabled households	18%
89%	Small families (1-4 members)	82%
11%	Large families (5+ members)	18%
65%	Non-Hispanic	57%
35%	Hispanic	43%
79%	White	64%
17%	Black	34%
1%	American Indian	1%
3%	Asian	0%
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 childcare 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 [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, 2019, there have been 345 successful graduates from the FSS program. As of August 1, 2019, the minimum program size for the FSS program is 54 families. There were 68 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.

19-I.D. DENIAL OF PARTICIPATION

A request for participation in the FSS program may be denied under the following circumstances:

- Beginning April 1, 2008, if the family 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

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 the contract.

19-I.E. 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
- GED, High School Diploma, and/or College Education
- Vocational Training
- Job Training, Preparation and Placement
- Homeownership Counseling
- Moral Support

- Treatment and Counseling for Substance and Alcohol Abuse

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 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, 2019, the FSS Scholarship Program has awarded 124 scholarships to FSS participants and their families. These awards total $110,550 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.

19-I.F. OUTREACH EFFORTS

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.

Assurance of Non-Interference with the Rights of Non-Participating Families

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 will in no way affect the family's right to continue rental assistance or their participation in the Housing Choice Voucher program.

19-I.G. FSS ACTIVITIES AND SUPPORTIVE SERVICES

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 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.

Committed Supportive Services

Current services, as indicated under Incentives, 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 (ESL) Classes

Additional Services

Through existing County of San Diego services, participants may be referred and have access to other services such as:

- Career Development Services
- Health and Preventive Health Care
- Nutrition Classes
- Consumer Rights
- Budgeting 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.

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.

19-I.H. CONTRACT OF PARTICIPATION

To participate in FSS, the head of household must enter into a 5-Year Contract of Participation (COP) with the HACSD.

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.

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.

Contract 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.

19-I.I. TERMINATION OF CONTRACT OF PARTICIPATION

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 this Administrative Plan.

19-I.J. 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.

Eligibility to Receive Escrow Funds

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.

Forfeiture of Escrow

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.

19-I.K. FSS PORTABILITY

FSS Family Port-In

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.

PART II: AFFIRMATIVELY FURTHER FAIR HOUSING- FSS PROGRAM
[24 CFR 984.104(c)]

19-II.A. OVERVIEW

An FSS program established under this part shall be operated in compliance with the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, with the exception of Executive Orders 11246, 11625, 12432, and 12138.

19-II.B. 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 2) 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.

19-II.C. RECORDS MANAGEMENT

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.

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM AAF

Annual adjustment factor (published by HUD in the *Federal Register* and used to compute annual rent adjustments)

ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HA	Housing authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards
HUD	Department of Housing and Urban Development

HUDCLIPS HUD Client Information and Policy System

IPA Independent public accountant

IRA Individual retirement account

IRS Internal Revenue Service

JTPA Job Training Partnership Act

LBP Lead-based paint

LEP Limited English proficiency

MSA Metropolitan statistical area (established by the U.S. Census Bureau)

MTCS Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)

MTW Moving to Work

NOFA Notice of funding availability

OGC HUD's Office of General Counsel

OIG HUD’s Office of Inspector General

OMB Office of Management and Budget

PASS Plan to Achieve Self-Support

PHA Public housing agency

PIC PIH Information Center

PIH (HUD Office of) Public and Indian Housing

PS Payment standard

QC Quality control

REAC (HUD) Real Estate Assessment Center

RFP Request for proposals

RFTA Request for tenancy approval

RIGI Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)

SEMAP Section 8 Management Assessment Program

SRO Single room occupancy

SSA Social Security Administration

SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See

§982.152.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of

that individual

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR. See 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two years.

Bifurcate. 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.

Budget authority. An amount authorized and appropriated by the Congress for payment 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.

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self- employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract 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).

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of

the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, 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* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. 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.

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(c).

***Elderly family*.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly person*.** An individual who is at least 62 years of age.

Eligible family A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family.*

***Employer identification number (EIN)*.** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status*.** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

***Fair market rent (FMR)*.** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

***Family*.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and

family size)

An elderly family or a near-elderly family

A displaced family

The remaining member of a tenant family

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster child care payment. A 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). See 24 CFR 5.603.

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). See *public housing agency.*

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

All employment income information known to current or previous employers or other income sources

All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law

Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

Unearned IRS income and self-employment, wages, and retirement income

Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See person with disabilities.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit

3-2 in this Administrative Plan.

Jurisdiction**.** The area in which the PHA has authority under state and local law to administer the program.

Landlord**.** Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

Lease**.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide**.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

Is determined to be essential to the care and well-being of the persons;

Is not obligated for the support of the persons; and

Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that

HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. (A special housing type: see 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.

***Medical expenses*.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of

annual income.

***Minor*.** A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

***Monthly adjusted income*.** One twelfth of adjusted income.

***Monthly income*.** One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative.*

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

***Near-elderly family*.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

***Net family assets*.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

> In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
>
> In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

***Office of General Counsel (OGC)*.** The General Counsel of HUD.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

***Owner*.** Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA 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).

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such

an impairment.

***Portability*.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

***Premises*.** The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

***Private space*.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

***Processing entity*.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

> Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
>
> Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
>
> Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

Qualified census tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A 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 (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

***Secretary*.** The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

***Social security number (SSN)*.** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

***Special housing types*.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage or registered domestic partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA)**.** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension**.** The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling.*

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant**.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP)**.** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit**.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to

six (6) bedrooms.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance**.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

***Utility reimbursement*.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent 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 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. 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 therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(housing choice voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit 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 FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.